

4-30-2015

Strong v. Intermountain Anesthesia, P.A. Clerk's Record v. 1 Dckt. 42514

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Vol 1 of 6

IN THE
SUPREME COURT
OF THE
STATE OF IDAHO

THOMAS L. STRONG AND BRIAN K. HAWK,

Plaintiff's/Appellants

ORIGINAL

vs.

INTERMOUNTAIN ANESTHESIA, P.A. AND
MARCUS E. MURPHY, M.D.

Defendant's/Respondent's

Appealed from the District Court of the Seventh Judicial

District of the State of Idaho, in and for Bonneville County

Hon. Shumway Magistrate Judge

Lowell N. Hawkes
1322 E. Center
Pocatello, ID 83201

Attorney for Appellant

Kevin J. Scanlan
1087 W. River Street, Suite 300
Boise, ID 83701

Attorney for Respondent

Filed this _____ day of _____, 20____.

Clerk

By _____ Deputy

42514

FILED - ORIGINAL

APR 30 2015

Supreme Court Court of Appeals
Entered on ATS by 155

IN THE SUPREME COURT OF THE STATE OF IDAHO

THOMAS L. STRONG and
BRIAN K. HAWK,

Plaintiff-Appellants,

vs.

INTERMOUNTAIN ANESTHESIA, P.A.
AND MARCUS E. MURPHY, M.D.,

Defendant-Respondents.

Case No. CV-2006-7149

Docket No. 42514

CLERK'S RECORD ON APPEAL

Appeal from the District Court of the
Seventh Judicial District of the State of Idaho,
in and for the County of Bonneville

HONORABLE Jon J. Shindurling, District Judge.

Lowell N. Hawkes
1322 E. Center
Pocatello, ID 83201

Attorney for Appellant

Kevin J. Scanlan
1087 W. River Street, Suite 300
Boise, ID 83701

Attorney for Respondent

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IDAHO SUPREME COURT
COURT OF APPEALS
2015 APR 30 PM 1:57

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Case: CV-2006-0007149-OC Current Judge: Jon J. Shindurling
 Thomas L. Strong, etal. vs. Intermountain Anesthesia, P.A., etal.

Thomas L. Strong, Brian K. Hawk vs. Intermountain Anesthesia, P.A., Marcus E. Murphy MD

Date	Code	User		Judge
2/20/2006	NCOT	DOOLITTL	New Case Filed-All Other	Gregory S. Anderson
	SMIS	DOOLITTL	Summons Issued (2)	Gregory S. Anderson
	NOAP	DOOLITTL	Plaintiff: Strong, Thomas L. Notice Of Appearance Lowell N. Hawkes	Gregory S. Anderson
	NOAP	DOOLITTL	Plaintiff: Hawk, Brian K. Notice Of Appearance Lowell N. Hawkes	Gregory S. Anderson
		DOOLITTL	Filing: A1 - Civil Complaint, More Than \$1000 No Prior Appearance Paid by: Hawkes, Lowell N. (attorney for Strong, Thomas L.) Receipt number: 0053048 Dated: 12/20/2006 Amount: \$88.00 (Check)	Gregory S. Anderson
	JUDGE	DOOLITTL	Judge Change Put in Magistrate Court by Mistake	Gregory S. Anderson
	COMP	DOOLITTL	Complaint Filed and Jury Demand	Gregory S. Anderson
2/26/2006	MOTN	DOOLITTL	Motion to Disqualify	Gregory S. Anderson
4/4/2007	ORDR	LMESSICK	Order of Disqualification	Gregory S. Anderson
8/8/2007	JUDGE	HUNTSMAN	Judge Change	Richard T. St. Clair
		HUNTSMAN	Order of Assignment	Richard T. St. Clair
1/17/2007		DOOLITTL	Filing: 11A - Civil Answer Or Appear. More Than \$1000 No Prior Appearance Paid by: Hall Farley Oberrecht & Blanton Receipt number: 0002276 Dated: 1/17/2007 Amount: \$58.00 (Check)	Richard T. St. Clair
	NOAP	DOOLITTL	Defendant: Intermountain Anesthesia, P.A. Notice Of Appearance Kevin J. Scanlan	Richard T. St. Clair
	NOAP	DOOLITTL	Defendant: Murphy, Marcus E. MD Notice Of Appearance Kevin J. Scanlan	Richard T. St. Clair
	AFFD	DOOLITTL	Affidavit of Kevin J. Scanlan in Support of Defendant Intermountain Anesthesia, P.A.'s Motion to Dismiss	Richard T. St. Clair
	MEMO	DOOLITTL	Defendant Intermountain Anesthesia, P.A.'s Memorandum in Support of Its Motion to Dismiss	Richard T. St. Clair
	MOTN	DOOLITTL	Defendant Intermountain Anesthesia, P.A.'s Motion to Dismiss	Richard T. St. Clair
6/6/2007		WILLIAMS	Filing: 11A - Civil Answer Or Appear. More Than \$1000 No Prior Appearance Paid by: Scanlan, Kevin J. (attorney for Murphy, Marcus E. MD) Receipt number: 0005220 Dated: 2/6/2007 Amount: \$58.00 (Check)	Richard T. St. Clair
	NOAP	WILLIAMS	Notice Of Appearance (Kevin Scanlan for Marcus E. Murphy, M.D.)	Richard T. St. Clair
7/7/2007	NOTH	PHILLIPS	Notice Of Hearing 3/13/07 @ 8:30 a.m.	Richard T. St. Clair
1/13/2007	MEMO	DOOLITTL	Memorandum in Support of Defendants' Motion to Strike (fax)	Richard T. St. Clair
	MOTN	DOOLITTL	Defendants' Motion to Strike (fax)	Richard T. St. Clair

Thomas L. Strong, Brian K. Hawk vs. Intermountain Anesthesia, P.A., Marcus E. Murphy MD

Date	Code	User		Judge
3/14/2007	ANSW	DOOLITTL	Marcus E. Murphy, M.D.'s Answer to Complaint and Jury Demand (fax)	Richard T. St. Clair
3/27/2007	NOTH	WILLIAMS	Notice Of Hearing - 3/13/07 @ 8:30 a.m.	Richard T. St. Clair
4/7/2007	AFFD	PHILLIPS	Affidavit of Counsel RE: Bankruptcy Stay	Richard T. St. Clair
	MISC	SOUTHWIC	Bankruptcy stay	Richard T. St. Clair
	STATUS	SOUTHWIC	Case Status Changed: inactive - bankruptcy stay	Richard T. St. Clair
4/12/2007	NOTH	PHILLIPS	Notice Of Hearing VACATED 2/13/07 @ 8:30 a.m. ***FAX***	Richard T. St. Clair
4/7/2007	JUDGE	MESSICK	Judge Change (batch process)	
7/1/2010	MOTN	LYKE	Motion to Lift Stay	Joel E. Tingey
	AFFD	LYKE	Affidavit of Jeffrey R. Townsend in Support of Defendants' Motion to Lift Stay	Joel E. Tingey
	MEMO	LYKE	Defendants' Memorandum in Support of Motion to Lift Stay	Joel E. Tingey
	MOTN	LYKE	Motion to Dismiss for Failure to Prosecute, or Alternatively, Motion for Summary Judgment	Joel E. Tingey
	AFFD	LYKE	Affidavit of Kevin J. Scanlan in Support of Defendants' Motion to Dismiss for Failure to Prosecute, or Alternatively, Motion for Summary Judgment	Joel E. Tingey
	MEMO	LYKE	Defendants' Memorandum in Support of Motion to Dismiss for Failure to Prosecute	Joel E. Tingey
	NOTH	LYKE	Notice Of Hearing Re: Motion to Lift Stay and Motion to Dismiss (08/11/10@9:00AM)	Joel E. Tingey
9/9/2010	ORDR	SOUTHWIC	Order for self-disqualification (Tingey)	Joel E. Tingey
	DISF	HUNTSMAN	Disqualification Of Judge - Self (Tingey)	Jon J. Shindurling
		HUNTSMAN	Order of Assignment to Honorable Jon J. Shindurling	Jon J. Shindurling
10/16/2010	ORDR	GWALTERS	Order Lifting Stay	Jon J. Shindurling
	HRSC	GWALTERS	Hearing Scheduled (Motion 09/07/2010 11:30 AM) Mtn for S/J or ITA Mtn to dismiss	Jon J. Shindurling
		GWALTERS	Notice of Hearing - Mtn hrg set 9/7/10 at 11:30 AM	Jon J. Shindurling
10/7/2010	MINE	GWALTERS	Minute Entry Hearing type: Motion Hearing date: 9/7/2010 Time: 11:31 am Courtroom: Court reporter: Nancy Marlow Minutes Clerk: Grace Walters Tape Number: Lowell Hawkes Kevin Scanlan by phone	Jon J. Shindurling

Case: CV-2006-0007149-OC Current Judge: Jon J. Shindurling
Thomas L. Strong, etal. vs. Intermountain Anesthesia, P.A., etal.

Thomas L. Strong, Brian K. Hawk vs. Intermountain Anesthesia, P.A., Marcus E. Murphy MD

Date	Code	User	Judge
11/7/2010	DCHH	GWALTERS	Hearing result for Motion held on 09/07/2010 11:30 AM: District Court Hearing Held Court Reporter: Nancy Marlow Number of Transcript Pages for this hearing estimated: under 50 Mtn for S/J or ITA Mtn to dismiss
	HRSC	GWALTERS	Hearing Scheduled (Motion 11/01/2010 09:30 AM) Mtn to dismiss for fail to prosecute
		GWALTERS	Notice of Hearing - Mtn hrg set 11/1/10 at 9:30 AM
11/9/2010	NDDT	DOOLITTL	Notice Of Deposition Duces Tecum of Defendant Marcus E. Murphy, M.D.
	NDDT	DOOLITTL	Notice Of Deposition Duces Tecum of Defendant Intermountain Anesthesia, P.A. Pursuant to Rule 30(b)(6)
11/14/2010	MINE	GWALTERS	AMENDED Minute Entry re Mtn hrg held 9/7/10 at 11:30 AM
11/23/2010	NDDT	DOOLITTL	Amended Notice Of Deposition Duces Tecum of Defendant Intermountain Anesthesia, P.A. Pursuant to Rule 30(b)(6)
	NDDT	DOOLITTL	Amended Notice Of Deposition Duces Tecum of Defendant Marcus E. Murphy, M.D.
11/28/2010		LYKE	Defendant Intermountain Anesthesia, P.A.'s Objection to Plaintiffs' Amended Notice of Taking Deposition Duces Tecum
12/06/2010	AFFD	SOLIS	Affidavit Of Marcus E. Murphy, M.D. In Support Of Supplemental Memorandum In Support Of Defendants' Motion To Dismiss For Failure To Prosecute, Or Alternatively, Motion For Summary Judgment
12/01/2010	RESP	LYKE	Plaintiffs' Response to Defendants' Motion to Dismiss and Motion for Summary Judgment
	AFFD	LYKE	Affidavit of Catherine L. Linderman, M.D.
	AFFD	LYKE	Affidavit of Brian K. Hawk
	AFFD	LYKE	Affidavit of Mary Ellen Hawk
	AFFD	LYKE	Affidavit of Thomas Lee Strong
	AFFD	LYKE	Affidavit of Terilyn Chenowith
	AFFD	LYKE	Affidavit of Counsel
12/03/2010	AFFD	DOOLITTL	Affidavit of Jeffrey R. Townsend in Support of Supplemental Memorandum in Support of Defendants' Motion to Dismiss for Failure to Prosecute, or Alternatively, Motion for Summary Judgment (fax)
		SBARRERA	Defendants' Reply To Plaintiffs' Response To Motion To Dismiss For Failure To Prosecute, Or Alternatively, Motion For Summary Judgment

Case: CV-2006-0007149-OC Current Judge: Jon J. Shindurling
Thomas L. Strong, etal. vs. Intermountain Anesthesia, P.A., etal.

Thomas L. Strong, Brian K. Hawk vs. Intermountain Anesthesia, P.A., Marcus E. Murphy MD

Date	Code	User	Judge
0/25/2010	AFFD	SBARRERA	Affidavit Of Jeffrey R. Townsend In Support Of Supplemental Memorandum In Support Of Defendants' Motion To Dismiss For Failure To Prosecute, Or Alternatively, Motion For Summary Judgment
0/29/2010	NOTC	GWALTERS	Notice of Reopening of Bk and Automatic Stay Order obo P Brian Hawk.
1/1/2010	MINE	GWALTERS	Minute Entry Hearing type: Motion Hearing date: 11/1/2010 Time: 10:06 am Courtroom: Court reporter: Nancy Marlow Minutes Clerk: Grace Walters Tape Number: Lowell Hawkes Kevin Scanlan
	DCHH	GWALTERS	Hearing result for Motion held on 11/01/2010 09:30 AM: District Court Hearing Held Court Reporter: Nancy Marlow Number of Transcript Pages for this hearing estimated: under 25 Mtn to dismiss for fail to prosecute
1/1/2013	TRAN	SOLIS	Transcript Filed - Motion To Dismiss Summary Judgment Motion - Nancy Marlow
1/8/2014	HRSC	LYKE	Hearing Scheduled (Motion 05/12/2014 10:00 AM) Mtn to Dismiss/Mtn for Summary Judgment
1/11/2014	NOTH	CARTER	Notice Of Hearing - RE: Defendants Renewed Motion To Dismiss, Or Alternatively, Motion For Summary Judgment (Time Corrections Only) 05/12/2014 10:00AM
1/14/2014	MOTN	CEARLY	Defendants' Renewed Motion To Dismiss, Or Alternatively, Motion For Summary Judgment
	MEMO	CEARLY	Memorandum In Support Of Defendants' Renewed Motion To Dismiss, Or Alternatively, Motion For Summary Judgment
	AFFD	CEARLY	Affidavit Of Kevin J Scanlan In Support Of Defendants' Renewed Motion To Dismiss, Or Alternatively, Motion For Summary Judgment
	NOTC	CEARLY	Notice Of Change Of Firm Name And Address Hall Farley Oberrecht & Blanton, PA To Duke Scanlan & Hall, PLLC
	NOTH	CEARLY	Notice Of Hearing RE: Defendants' Renewed Motion To Dismiss, Or Alternatively, Motion For Summary Judgment 05-12-14 @ 9:00 AM

Case: CV-2006-0007149-OC Current Judge: Jon J. Shindurling
Thomas L. Strong, etal. vs. Intermountain Anesthesia, P.A., etal.

Thomas L. Strong, Brian K. Hawk vs. Intermountain Anesthesia, P.A., Marcus E. Murphy MD

Date	Code	User		Judge
6/5/2014	NOTH	CARTER	Amended Notice Of Hearing RE: Defendants Renewed Motion To Dismiss, Or Alternatively, Motion For Summary Judgment 06/02/2014 10:00AM	Jon J. Shindurling
6/8/2014	CONT	LYKE	Hearing result for Motion scheduled on 05/12/2014 10:00 AM: Continued Mtn to Dismiss/Mtn for Summary Judgment - Scanlan to send NTC	Jon J. Shindurling
	HRSC	LYKE	Hearing Scheduled (Motion 06/02/2014 10:00 AM) Motion to Dismiss	Jon J. Shindurling
6/20/2014	RESP	HUMPHREY	Plaintiffs' Supplemental Response To Defendants' Motion To Dismiss And Motion For Summary Judgment	Jon J. Shindurling
	AFFD	HUMPHREY	Supplemental Affidavit Of Counsel	Jon J. Shindurling
6/29/2014	MEMO	HUMPHREY	Reply Memorandum In Support Of Defendants' Renewed Motion To Dismiss, Or Alternatively, Motion For Summary Judgment	Jon J. Shindurling
6/2/2014	MINE	LYKE	Minute Entry Hearing type: Motion Hearing date: 6/2/2014 Time: 9:46 am Courtroom: Court reporter: Mary Fox Minutes Clerk: Amanda Lyke Tape Number: Party: Brian Hawk, Attorney: Lowell Hawkes Party: Intermountain Anesthesia, P.A., Attorney: Kevin Scanlan Party: Marcus Murphy, Attorney: Kevin Scanlan Party: Thomas Strong, Attorney: Lowell Hawkes	Jon J. Shindurling
	DCHH	LYKE	Hearing result for Motion scheduled on 06/02/2014 10:00 AM: District Court Hearing Held Court Reporter: Mary Fox Number of Transcript Pages for this hearing estimated: Motion to Dismiss Under 50	Jon J. Shindurling
6/7/2014	MRUD	HUMPHREY	Mail Returned Unable to Deliver - Kevin J Scanlan, Attorney New Address, Resent	Jon J. Shindurling
6/28/2014	ORDR	LYKE	Opinion and Order Granting Defendants' Renewed Motion to Dismiss, or Alternatively, Motion for Summary Judgment	Jon J. Shindurling
6/12/2014	JDMT	LYKE	Judgment (all claims asserted in Plaintiffs' Complaint and Jury Demand are dismissed with prejudice)	Jon J. Shindurling
	STATUS	LYKE	Case Status Changed: Closed	Jon J. Shindurling
	CDIS	LYKE	Civil Disposition entered for: Intermountain Anesthesia, P.A., Defendant; Murphy, Marcus E. MD, Defendant; Hawk, Brian K., Plaintiff; Strong, Thomas L., Plaintiff. Filing date: 8/12/2014	Jon J. Shindurling

Case: CV-2006-0007149-OC Current Judge: Jon J. Shindurling
Thomas L. Strong, etal. vs. Intermountain Anesthesia, P.A., etal.

Thomas L. Strong, Brian K. Hawk vs. Intermountain Anesthesia, P.A., Marcus E. Murphy MD

Date	Code	User	Judge
8/8/2014		HUMPHREY	Filing: L4 - Appeal, Civil appeal or cross-appeal to Supreme Court Paid by: Law Offices Lowell N. Hawkes Receipt number: 0040766 Dated: 9/8/2014 Amount: \$129.00 (Check) For: Hawk, Brian K. (plaintiff) and Strong, Thomas L. (plaintiff)
	APSC	HUMPHREY	Appealed To The Supreme Court Jon J. Shindurling
	NOTC	HUMPHREY	Plaintiffs' Notice Of Appeal Jon J. Shindurling
9/10/2014	BNDC	PADILLA	Bond Posted - Cash (Receipt 41181 Dated 9/10/2014 for 100.00) Jon J. Shindurling
	STATUS	PADILLA	Case Status Changed: Closed pending clerk action Jon J. Shindurling
	CERTAP	PADILLA	Clerk's Certificate of Appeal Jon J. Shindurling
	APSC	PADILLA	Appealed To The Supreme Court Jon J. Shindurling
10/3/2014	NOTC	CARTER	Plaintiffs Amended Notice Of Appeal Jon J. Shindurling
10/9/2014		BIRCH	Respondent's Designation Of Additional Record On Appeal (fax) Jon J. Shindurling
11/4/2015		CEARLY	Plaintiffs' Second Amended Notice Of Appeal Jon J. Shindurling

Lowell N. Hawkes (ISB #1852)
Ryan S. Lewis (ISB #6775)
LOWELL N. HAWKES, CHARTERED
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Pocatello, Idaho 83201
Telephone: (208) 235-1600
FAX: (208) 235-4200
Attorneys for Plaintiffs

2006 DEC 20 PM 1:54

CLERK OF COURT
MAGISTRATE DIVISION
BONNEVILLE COUNTY
IDAHO

**IN THE SEVENTH JUDICIAL DISTRICT COURT
BONNEVILLE COUNTY, IDAHO**

THOMAS L. STRONG and
BRIAN K. HAWK,

Plaintiffs,

vs.

INTERMOUNTAIN ANESTHESIA, P.A.
AND MARCUS E. MURPHY, M.D.,

Defendants.

Case No. CV-06-7149

**COMPLAINT
AND
JURY DEMAND**

COUNT ONE

District Court Jurisdiction and Parties

1. The District Court has jurisdiction because the amount at issue herein is in excess of \$10,000.00.
2. Plaintiffs Thomas Strong and Brian Hawk are residents of Bonneville and Bannock County, Idaho.

3. “Intermountain Anesthesia, P.A.” is an Idaho professional corporation with offices in Idaho Falls that was created January 25, 1993 for the purposes of providing medical anesthesia care to patients. The current Annual Report filed with the Idaho Secretary of State shows Marcus E. Murphy as a “Director” of the entity. The current corporation Registered Agent for service of process and President is Robert Hague, residing at 2751 Weekford Court in Idaho Falls, Idaho.

4. At all times material Defendants owed a duty to Plaintiffs to provide adequate and non-negligent professional anesthesia care and to protect them from further injury. For the reasons stated herein, Defendants were negligent and failed in their duties to Plaintiffs.

Medical Injury Facts

5. On June 26, 2004, at the Eastern Idaho Medical Center (“EIRMC”) in Idaho Falls, Idaho the Plaintiffs Thomas Strong and Brian Hawk were two of six patients scheduled for the surgical implant by Dr. Catherine Linderman of spinal/peripheral nerve stimulators at EIRMC in Idaho Falls.

6. On June 26, 2004 at EIRMC the Defendants Intermountain Anesthesia, P.A. and Marcus E. Murphy were assigned to the anesthesia care and anesthesia oversight of Mr. Strong and Mr. Hawk incidental to the surgery.

Fast-Acting and Fast-Reversing IV Anesthesia Needed

7. General anesthesia cannot be used for patients such as Plaintiffs as they have to be able at times to talk in order to assist Dr. Linderman in the effective placement of the electrode leads. At other times they need to be more sedated. For that reason a fast-acting and fast-reversing IV anesthetic like low-dose Propofol is used in conjunction with Versed (a sedative that causes amnesia) and Fentanyl (an opiate).

Airway known to be vulnerable

8. For the same reasons, airways and endotracheal tubes are not used in these patients. Because these patients have no airway protection it is essential that the anesthetist or anesthesiologist stay vigilant with the patient and those medical facts were known to Defendants at all material times.

Continuing Oversight Responsibility/Assignment of CRNA

9. On the morning of June 25, 2004 Mr. Strong was the first of six patients scheduled for the implant surgery. Defendants assigned a CRNA Mary Waight to the hands-on role of caring for Mr. Strong in that first procedure and Defendants had the continuing anesthesia oversight and preassessment evaluation responsibility for Mr. Strong's care.

CRNA takes a break

10. The anesthesia started with Mr. Strong about 7:30 a.m. Initially things went well. Then CRNA Waight took a previously-unannounced break mid-procedure at 8:45.

11. When CRNA Waight took a break, she was replaced by another CRNA Schmalz but Defendants had a continuing oversight responsibility to Mr. Strong. Despite the known risks and patient vulnerability, Mr. Schmalz left the head of the Operating Room table and did so with the actual knowledge of Defendants. Thus, there was no anesthesia person at the head of the table — no anesthesia person was hands-on caring for Mr. Strong.

“I need some help over here!”

12. Thereafter, while still unattended by any anesthesia person, Dr. Linderman heard that Mr. Strong was choking but was unable to see him because of the “Ether Screen” blocking her direct view of him. When she looked through the Ether Screen she saw that no one was caring for Mr. Strong. She yelled for help with Mr. Strong but Defendant Murphy and CRNA Schmalz, who was visiting in the corner, did not respond promptly. That necessitated Dr. Linderman putting her surgical instruments down and caring for Mr. Strong in providing the anesthesia attention and care that was the responsibility of Defendants to help Mr. Strong regain his compressed airway.

“No wonder he obstructed”

13. About this time CRNA Mary Waight returned from her break and resumed care of Mr. Strong. She advised Dr. Linderman that the obstruction of Mr. Strong’s airway was no surprise as “they increased the Propofol infusion” to an improper and unsafe level.

14. The conduct of Defendants was wrongful and negligent.

“Negative Pressure Pulmonary Edema”

15. As a direct result of Defendants’ negligence, Mr. Strong was injured and continued to cough through the remainder of the procedure as a result of the injuries sustained; Mr. Strong sustained “Negative Pressure Pulmonary Edema” that was evidenced at the time by, among other things, his coughing up of large amounts of frothy bright-red blood. He required an extended hospital stay from what would have otherwise been an outpatient surgery. His Anesthesia Record makes no note of the airway obstruction that occurred nor does it recite the presence of bright red blood that Mr. Strong had coughed up while in the OR.

16. The consequence of Negative Pressure Pulmonary Edema that results in bleeding is damage to the lungs and making them less elastic with a reduced capacity for oxygen exchange. That condition affects every activity and physical function that is dependent upon good lung function. As a result Mr. Strong’s life and capacity for activity have changed significantly.

Retaliation for Their Own Negligence

17. Rather than taking responsibility for their negligent care of Mr. Strong, Defendant Murphy, who had not even taken the time to participate in the pre-anesthesia planning with Dr. Linderman and CRNA Waight, attacked both Mr. Strong and Dr. Linderman and retaliated against Plaintiff Hawk and the other patients hospitalized that day for similar surgery despite, among other things, his private acknowledgments that he had failed to adequately inform himself.

Blaming the Patient

18. Specifically, Defendant Murphy, post surgery, accused and blamed Mr. Strong for his own injuries by stating it was wrong for Mr. Strong to take “a deep breath” when he was choking from an obstructed airway. Defendant Murphy also acknowledged the seriousness of the injury and damage and that there would be “long-term ramifications and hardening of the lung and lung capacity” as a result of the negative pressure pulmonary edema he suffered.

19. In addition and in further retaliation for Defendants’ own negligence, Defendant Murphy told Dr. Linderman to “take her business elsewhere” and that her remaining five patients — including Plaintiff Hawk — would not be given any more sedation than 2 cc. of Fentanyl and 2 mg. of Versed which, in a chronic pain patient is like giving them a simple aspirin; it is wholly inadequate and negligent, substandard anesthesia care.

“We will keep you comfortable”

20. Thereafter, and despite the obvious negligence and wrongness of the foregoing described conduct, and the prior specific assurances Defendant Murphy had given to Plaintiff Brian Hawk earlier in the day in the presence of Mr. Hawk’s wife Mary Ellen that Brian would be given adequate anesthesia to always be comfortable, the retaliation threats made to Dr. Linderman were carried out.

21. Specifically, Defendants assigned CRNA Jeff Taylor to the hands-on anesthesia care of Mr. Hawk whose anesthesia started at about 5:15 p.m.. Defendants specifically prohibited CRNA Taylor from giving adequate pain relief to Mr. Hawk who thus sustained severe and wholly-unnecessary *terrible* pain during his surgical procedure.

22. The Defendants were negligent and wrongful in their anesthesia responsibilities to Mr. Hawk.

COUNT TWO

23. Plaintiffs reallege paragraphs 1 through 22.

24. At all times material, Defendants and their agents, employees, and personnel had a duty to maintain and preserve a complete and accurate medical record of all material events relative to Plaintiffs.

25. Defendants have wrongfully failed to maintain and preserve the complete and accurate medical record or have otherwise concealed material medical facts

or have caused spoliation of the medical record in order to try and conceal their wrongdoing and negligence.

WHEREFORE, Plaintiffs pray for judgment against Defendants for their special and general damages, without limit, in such amount as shown by the evidence, plus costs and attorneys' fees incurred herein, and such other and further relief as the Court deems proper. Plaintiffs specifically reserve their rights under *Idaho Code* §6-1604 relative to a future right to seek to amend for exemplary damages.

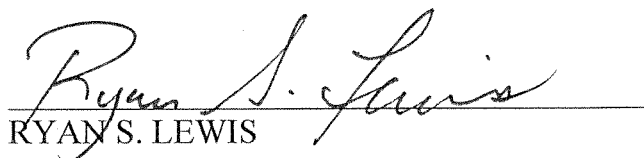
JURY DEMAND

Plaintiffs demand trial by jury on all issues.

DATED this 20th day of December, 2006

LOWELL N. HAWKES, CHARTERED


LOWELL N. HAWKES


RYAN S. LEWIS

BONNEVILLE COUNTY
IDAHO

2007 JAN -8 AM 8:21

IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR BONNEVILLE COUNTY

THOMAS L. STRONG, ETAL. ,

Plaintiff(s),

vs.

INTERMOUNTAIN ANESTHESIA, P.A., ETAL.,)

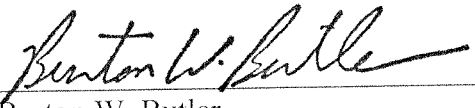
Defendant(s).)
_____)

Case No. CV-2006-0007149

ORDER OF ASSIGNMENT

IT IS HEREBY ORDERED that the above-entitled case is referred to the Honorable
Richard T. St. Clair for further proceedings.

DONE AND DATED January 8th, 2007.




Burton W. Butler
Trial Court Administrator

CERTIFICATE OF SERVICE

I hereby certify that on January, 8th, 2007, I served a true and correct copy of the foregoing
Order of Assignment to the following by mailing, with correct postage thereon, sending by
facsimile, or by causing the same to be hand delivered.

Clerk of Court, Bonneville County (courthouse box)
Honorable Richard T. St. Clair, Bonneville County (courthouse box)
Lowell N. Hawkes, Esq., 1322 East Center, Pocatello, Idaho 83201



Beckie Huntsman
Administrative Assistant

KEVIN J. SCANLAN
ISB #5521; kjs@hallfarley.com
MARK J. ORLER
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HALL, FARLEY, OBERRECHT & BLANTON, P.A.
702 West Idaho, Suite 700
Post Office Box 1271
Boise, Idaho 83701
Telephone: (208) 395-8500
Facsimile: (208) 395-8585
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2007 JAN 17 PM 12:52
DISTRICT COURT
MAGISTRATE DIVISION
BONNEVILLE COUNTY
IDAHO

Attorneys for Defendants Intermountain Anesthesia, P.A.
and Marcus E. Murphy, M.D.

IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNEVILLE

THOMAS L. STRONG, and BRIAN K.
HAWK,

Plaintiffs,

vs.

INTERMOUNTAIN ANESTHESIA, P.A. and
MARCUS E. MURPHY, M.D.,

Defendants.

Case No. CV 06-7149


**DEFENDANT INTERMOUNTAIN
ANESTHESIA, P.A.'S MOTION TO
DISMISS**

ORIGINAL

COMES NOW defendant INTERMOUNTAIN ANESTHESIA, P.A., by and through its counsel of record, Hall, Farley, Oberrecht & Blanton, P.A., and pursuant to Rule 12(b)(6) of the Idaho Rules of Civil Procedure hereby moves this Court to dismiss it from this action based upon the expiration of the applicable two-year statute of limitations in Idaho Code Section 5-219(4). This motion is supported by Defendant's Memorandum in Support of Motion to Dismiss, the Affidavit of Kevin J. Scanlan, filed herewith, and the plaintiff's Complaint and Jury Demand on file with the Court.

DATED this 16 day of January, 2007.

HALL, FARLEY, OBERRECHT &
BLANTON, P.A.


By: 
Kevin J. Scanlan – Of the Firm
Attorneys for Defendants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 16 day of January, 2007, I caused to be served a true copy of the foregoing **DEFENDANT INTERMOUNTAIN ANESTHESIA'S MOTION TO DISMISS**, by the method indicated below, and addressed to each of the following:

Lowell N. Hawkes
Ryan S. Lewis
Lowell N. Hawkes, Chartered
1322 East Center
Pocatello, ID 83201
Facsimile (208) 235-4200

- ☒ U.S. Mail, Postage Prepaid
- ☐ Hand Delivered
- ☐ Overnight Mail
- ☒ Telecopy



Kevin J. Scanlan

KEVIN J. SCANLAN
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2007 JAN 17 PM 12:52
DISTRICT COURT
JUDICIAL DISTRICT
BONNEVILLE COUNTY
IDAHO

Attorneys for Defendants Intermountain Anesthesia, P.A.
and Marcus E. Murphy, M.D.

IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNEVILLE

THOMAS L. STRONG, and BRIAN K.
HAWK,

Plaintiffs,

vs.

INTERMOUNTAIN ANESTHESIA, P.A. and
MARCUS E. MURPHY, M.D.,

Defendants.

Case No. CV 06-7149

**DEFENDANT INTERMOUNTAIN
ANESTHESIA, P.A.'S
MEMORANDUM IN SUPPORT OF
ITS MOTION TO DISMISS**

ORIGINAL

I. INTRODUCTION

COMES NOW defendant INTERMOUNTAIN ANESTHESIA, P.A., by and through its counsel of record, Hall, Farley, Oberrecht & Blanton, P.A., and hereby respectfully submits this Memorandum in Support of its Motion to Dismiss. For the reasons stated below and pursuant to Idaho Rule of Civil Procedure 12(b)(6), defendant Intermountain Anesthesia requests that this Court dismiss it from this action in its entirety.

II. STATEMENT OF UNDISPUTED FACTS

This is an action for medical malpractice in which plaintiff Thomas L. Strong (“Strong”) and plaintiff Brian K. Hawk (“Hawk” or collectively “plaintiffs”) generally allege negligence in the conduct of defendants Intermountain Anesthesia and Marcus E. Murphy, M.D. relative to anesthesia care provided to plaintiffs on June 25, 2004, when each plaintiff underwent a separate surgical implant procedure to place a neuron stimulator. The surgeries were performed by Catherine Linderman, M.D. at Eastern Idaho Medical Center in Idaho Falls, Idaho. (See Strong and Hawk Complaint and Jury Demand on file herein, ¶ 5.) On May 24, 2006, both plaintiff Strong and plaintiff Hawk filed separate requests for a Prelitigation Hearing Panel to the Idaho State Board of Medicine, pursuant to Idaho Code § 6-1001 et seq. (Affidavit of Kevin J. Scanlan in Support of Defendant Intermountain Anesthesia, P.A.'s Motion to Dismiss (hereinafter “Scanlan Aff.”), Ex. “A” and Ex. “B.”) Each of the plaintiff’s respective applications named as prospective defendant Marcus E. Murphy, M.D., as well as “[a]ny professional corporation or entity connected with [Marcus E. Murphy, M.D.]” (Id.)

On November 10, 2006, the prelitigation screening panel hearings were conducted in the matter, and on November 20, 2006, the panel's advisory opinions on both hearings were issued by the Idaho State Board of Medicine. (Scanlan Aff. ¶ 5; Ex. “C” and Ex. “D.”) Thereafter, on December 20, 2006, plaintiffs jointly filed a complaint for medical malpractice in this Court, naming as defendants Intermountain Anesthesia, P.A. and Marcus E. Murphy, M.D. (See Strong and Hawk Complaint and Jury Demand on file herein.) Although both plaintiff Strong and plaintiff Hawk made an implied reference to Intermountain Anesthesia through the aforementioned catch-all clause as a prospective defendant in their formal requests for a Prelitigation Hearing Panel to the Idaho State Board of Medicine, such proceedings are not

applicable to such an entity and, as such, the related tolling provisions of IC § 6-1005 are not applicable to plaintiffs' claims against Intermountain Anesthesia, P.A.. *See also*, IC § 6-1001. Because no lawsuit had been filed by plaintiffs against Intermountain Anesthesia concerning plaintiffs' alleged injuries in this matter prior to the filing of plaintiffs' Complaint on December 20, 2006.

As a result of plaintiffs' failure to commence this action against Intermountain Anesthesia within two (2) years from the date of their alleged injury, plaintiffs' action against Intermountain Anesthesia, P.A. must be dismissed.

III. ARGUMENT

A. Standard of Review

A motion pursuant to I.R.C.P. 12(b)(6) must be read in conjunction with I.R.C.P. 8(a)(1), which requires a party to plead a claim in a "a short and plain statement . . . showing that the pleader is entitled to relief." Harper v. Harper, 122 Idaho 535, 536, 835 P.2d 1346, 1347 (Ct. App. 1992). As with a motion under Rule 8(a)(1), the complaint is held in a light most favorable to the plaintiff and every reasonable inference will be regarded in the plaintiffs favor. Ernst v. Hemenway and Moser, Co., 120 Idaho 941, 946, 821 P.2d 996, 1001 (Ct. App. 1991). Under Rule 12(b)(6), an action should be dismissed for failure to state a claim upon which relief can be granted when, after reading the complaint in a light most favorable to the plaintiff, it appears the plaintiff has alleged no facts in support of his claims that would entitle him to relief. *See* Rincover v. Department of Fin., Sec. Bureau, 128 Idaho 653, 917 P.2d 1293 (1996). The Court should grant a 12(b)(6) motion when it appears beyond doubt that the plaintiff cannot prove any set of facts in support of his claim that would entitle him to relief. Orthman v. Idaho Power Co., 126 Idaho 960, 895 P.2d 561, 563 (1995) (citing Idaho Comm'n on Human Rights v. Campbell,

95 Idaho 215, 506 P.2d 112, 114 (1973)).

B. Plaintiffs' Claims Against Intermountain Anesthesia, P.A. Are Time-Barred.

Idaho law provides that an action to recover damages for professional malpractice, or for an injury to the person, must be commenced within two (2) years from the time of the occurrence, act or omission complained of. Idaho Code § 5-219(4). In an alleged malpractice case involving a claim for damages against a physician, surgeon, or licensed acute care general hospital, an injured party must, as a condition precedent to litigation, file a claim against the physician, surgeon, or hospital, with the Idaho State Board of Medicine. Idaho Code § 6-1001 (emphasis added). During the pendency of the injured party's claim before the Idaho State Board of Medicine, the statute of limitations is tolled from the time the claim is received by the Board of Medicine until thirty (30) days following the date of filing of the panel's decision and recommendations with the Board. Idaho Code § 6-1005; see also James v. Buck, 111 Idaho 708, 711–13, 727 P.2d 1136, 1139–41 (1986). Therefore, in order to be timely, the injured party must either commence a lawsuit or file a claim with the Idaho State Board of Medicine against the allegedly negligent physician, surgeon, or hospital within the two-year period provided for by Idaho Code § 5-219(4). See Moss v. Bjornson, 115 Idaho 165, 765 P.2d 676 (1988).

In the instant matter, plaintiff Strong and plaintiff Hawk failed to commence their lawsuit against Intermountain Anesthesia within two (2) years of the date of their respective surgeries—June 25, 2004. In accordance with Idaho Code § 5-219(4), plaintiffs' action against Intermountain Anesthesia should have been filed no later than June 25, 2006. Although both plaintiff Strong and plaintiff Hawk made an implied reference to Intermountain Anesthesia as a prospective defendant in their requests for Prelitigation Screening by the Idaho State Board of Medicine, such implication was not authorized by statute. Idaho Code § 6-1001 governs claims

before the Idaho State Board of Medicine and specifically lists the parties that can be brought before the Board, specifically limiting those parties to physicians, surgeons, or licensed acute care general hospitals. Idaho Code § 6-1001. The statute does not include professional business entities whose shareholders, members, or partners are brought before the panel. Thus, any reference to Intermountain Anesthesia as a professional corporation or entity being a prospective defendant before the Idaho State Board of Medicine is irrelevant to such proceedings and will have no effect on the running of the statute of limitations against such entity. Consequently, no action against Intermountain Anesthesia was commenced by plaintiffs until the filing of their Complaint on December 20, 2006, almost a full six (6) months after the statute of limitations had expired against it.

C. Plaintiffs Could Have Commenced a Lawsuit Prior to (or Simultaneous to) Requesting the Prelitigation Hearing Panel to Protect the Statute of Limitations.

The plaintiffs could have protected the statute of limitations against Intermountain Anesthesia by filing a lawsuit prior to (or simultaneous to) requesting a prelitigation hearing panel. The Idaho Supreme Court has recognized that it is proper for a plaintiff to commence an action, even against parties who must first be included in prelitigation screening proceedings, in order to prevent the statute of limitations from running. See Moss v. Bjornson, 115 Idaho 165, 765 P.2d 676 (1988). In Moss, the issue was whether the dismissal of a court action is mandated where a medical malpractice complaint is filed prior to a request for a prelitigation screening panel. 115 Idaho at 166, 765 P.2d at 677. The Idaho Supreme Court held that a party allegedly harmed by medical malpractice could commence a civil lawsuit before filing a request for a prelitigation screening panel. Id. The Court noted that Idaho Code § 6-1001 does not mandate the dismissal of a medical malpractice lawsuit because it is filed before the commencement of the prelitigation hearing panel proceedings. Id. Rather, Idaho Code § 6-1001 must be read in

conjunction with I.C. § 6-1006, which authorizes the district court to stay civil proceedings until the prelitigation screening panel renders its advisory opinion. Id. at 166–67, 765 P.2d at 678. As a result, while filing with the screening panel is a condition precedent to proceeding with district court litigation, it is not a condition precedent to filing an action in order to toll the statute of limitations. Id. at 167, 765 P.2d at 678.

In the instant matter, plaintiffs were free, under the holding of Moss, to commence their action in district court against Intermountain Anesthesia—as well as Dr. Murphy—prior to the running of the two (2) year statute of limitations on June 25, 2006, and for the purpose of stopping the statute of limitations period from running. Had that been the case, it would have been appropriate for the district court to enter a stay in the civil lawsuit until the prelitigation screening panel rendered its opinions concerning plaintiff Strong’s and plaintiff Hawk’s claims against Dr. Murphy. Thereafter, plaintiffs would have been free to pursue their claims against both defendants, unabated by the statute of limitations. Moss, 115 Idaho at 167, 765 P.2d at 678. Under such circumstances, plaintiffs’ action against Intermountain Anesthesia would have satisfied the two-year period provided for by Idaho Code § 5-219(4).

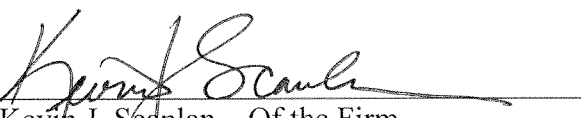
As it stands, however, plaintiffs failed to commence their action against Intermountain Anesthesia within the period required by Idaho law. They did not commence an action against Intermountain Anesthesia until the filing of their Complaint on December 20, 2006. Consequently, it is clear that plaintiffs’ complaint against Intermountain Anesthesia in this case is time-barred and must, therefore, be dismissed.

IV. CONCLUSION

Based upon the foregoing, defendant Intermountain Anesthesia, P.A. respectfully requests that this Court grant its Motion to Dismiss and enter an order dismissing plaintiffs' claims against it.

DATED this 16 day of January, 2007.

HALL, FARLEY, OBERRECHT &
BLANTON, P.A.


By: 
Kevin J. Scanlan – Of the Firm
Attorneys for Defendants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 16 day of January, 2007, I caused to be served a true copy of the foregoing **DEFENDANT INTERMOUNTAIN ANESTHESIA, P.A.'S MEMORANDUM IN SUPPORT OF ITS MOTION TO DISMISS**, by the method indicated below, and addressed to each of the following:

Lowell N. Hawkes
Ryan S. Lewis
Lowell N. Hawkes, Chartered
1322 East Center
Pocatello, ID 83201
Facsimile (208) 235-4200

- ☒ U.S. Mail, Postage Prepaid
- ☐ Hand Delivered
- ☐ Overnight Mail
- ☒ Telecopy



Kevin J. Scanlan

KEVIN J. SCANLAN
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MARK J. ORLER
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2007 JAN 17 PM 12:52
DISTRICT COURT
MAGISTRATE DIVISION
BONNEVILLE COUNTY
IDAHO

Attorneys for Defendants Intermountain Anesthesia, P.A.
and Marcus E. Murphy, M.D.

IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNEVILLE

THOMAS L. STRONG, and BRIAN K.
HAWK,

Plaintiffs,

vs.

INTERMOUNTAIN ANESTHESIA, P.A. and
MARCUS E. MURPHY, M.D.,

Defendants.

Case No. CV 06-7149

**AFFIDAVIT OF KEVIN J. SCANLAN
IN SUPPORT OF DEFENDANT
INTERMOUNTAIN ANESTHESIA,
P.A.'S MOTION TO DISMISS**

ORIGINAL

STATE OF IDAHO)
) ss.
County of Ada)

I, Kevin J. Scanlan, being first duly sworn upon oath, deposes and says:

1. I am an attorney licensed to practice in the State of Idaho, and am an attorney of record for defendant Intermountain Anesthesia, P.A. in the above-referenced matter.
2. I make this Affidavit on my personal knowledge and belief.
3. Attached hereto as Exhibit "A" is a true and correct copy of plaintiff Tom L.

Strong's request for a Prelitigation Hearing Panel, dated May 23, 2006, and stamped as received by the Idaho State Board of Medicine on May 24, 2006.

4. Attached hereto as Exhibit "B" is a true and correct copy of plaintiff Brian Hawk's request for a Prelitigation Hearing Panel, dated May 23, 2006, and stamped as received by the Idaho State Board of Medicine on May 24, 2006.

5. I represented defendant Marcus E. Murphy, M.D. in both proceedings before the Idaho State Board of Medicine and am aware that the prelitigation screening panel hearings in this matter were conducted on November 10, 2006. I have also received a copy of each of the panel's Advisory Opinions indicating that each was received at the Idaho State Board of Medicine on November 17, 2006.

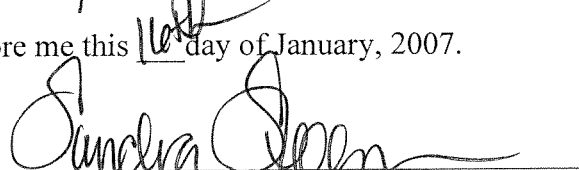
6. Attached hereto as Exhibit "C" is a true and correct copy of the Idaho State Board of Medicine's notice of service regarding the panel's report and recommendation in the matter of Tom L. Strong v. Marcus Edward Murphy, M.D., dated November 20, 2006.

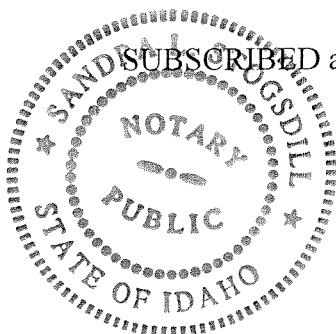
7. Attached hereto as Exhibit "D" is a true and correct copy of the Idaho State Board of Medicine's notice of service regarding the panel's report and recommendation in the matter of Brian Hawk v. Marcus Edward Murphy, M.D., dated November 20, 2006.

DATED this 16 day of January, 2007.


Kevin J. Scanlan

SUBSCRIBED and SWORN to before me this 16 day of January, 2007.


Sandra J. Scanlan
Notary Public for Idaho
Residing in Boise
My commission expires: 01-15-09

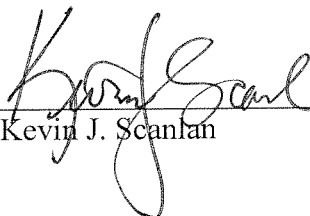


CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 16 day of January, 2007, I caused to be served a true copy of the foregoing **AFFIDAVIT OF KEVIN J. SCANLAN IN SUPPORT OF DEFENDANT INTERMOUNTAIN ANESTHESIA'S MOTION TO DISMISS**, by the method indicated below, and addressed to each of the following:

Lowell N. Hawkes
Ryan S. Lewis
Lowell N. Hawkes, Chartered
1322 East Center
Pocatello, ID 83201
Facsimile (208) 235-4200

- ☒ U.S. Mail, Postage Prepaid
- ☐ Hand Delivered
- ☐ Overnight Mail
- ☒ Telecopy



Kevin J. Scanlan

EXHIBIT A



Idaho State Board of Medicine

PO Box 83720 Boise, ID 83720-0058

CONFIDENTIAL

June 2, 2006

36-06

Strong v. Murphy, MD

TO: Concerned Persons, per attached list

FROM: Gloria Pedersen, Administrative Assistant
for Nancy Kerr, Executive Director

RE: PRELITIGATION SCREENING REQUEST

1. Request for hearing in the above matter was received May 24, 2006.
2. Brent O. Roche, Attorney at Law, has accepted appointment as panel chairman in the above matter.
3. All parties will be notified when hearing is scheduled.
4. To facilitate scheduling, please notify this office and the panel chairman of the names of defense counsel promptly. Defendants are asked to notify insurers. Claimant and defense attorneys are requested to furnish panel Chairman Roche, with dates during the next four months when they would be **unavailable** for a hearing. Please mail calendars to the chairman at the following address, within the next 21 days:
PO Box 1391, Pocatello, Idaho 83204-1391, telephone (208) 232-6101, fax (208) 232-6109.
5. For non-members of the Idaho State Bar to appear before agency proceedings in this state, it is necessary to have an active member of the Idaho Bar associated and present. Claimant may appear pro se.
6. All parties will be notified when hearing is scheduled.

GP/jw
Attachments

37-06 Strong v Murphy, MD

On June 2, 2006, a copy of the claim in the above matter was mailed by regular U.S. Mail and marked **CONFIDENTIAL** to all interested parties as follow:

Lowell N Hawkes
Attorney at Law
1322 East Center
Pocatello ID 83201

Marcus Edward Murphy MD
7654 S Cliffside
Idaho Falls ID 83406

Brent O Roche
Attorney at Law
PO Box 1391
Pocatello ID 83204-1391



Nancy Kerr, Executive Director
Idaho State Board of Medicine

NK/gp

May. 23. 2006 9:53PM Lowell Hawkes

No. 4745 P. 1

RECEIVED

MAY 24 2006

IDAHO STATE BOARD
OF MEDICINE
Fax (208) 235-4200

Law Offices of
LOWELL N. HAWKES, CHARTERED
1322 East Center
Pocatello, Idaho 83201
(208) 285-1600

Licensed in Idaho and Utah

May 23, 2006

VIA FAX (208) 327-7005

Ms. Nancy Kerr, Executive Director
Idaho State Board of Medicine
1755 Westgate Drive, Suite 140
P.O. Box 83720
Boise, Idaho 83704

Re: Prelitigation Hearing Panel Request
Patient: Tom L. Strong
Date of Birth: 9/8/1981
Date of Procedure: June 25, 2004

Dear Ms. Kerr:

Please consider this letter as a formal request on behalf Tom L. Strong, pursuant to *Idaho Code* §6-1001, et seq., for a Prelitigation Hearing Panel. Your prompt acknowledgment of this Request and scheduling of a hearing will be appreciated.

Patient and Dates

The patient at issue is Tom Strong, a resident of Idaho Falls. The date that is the focus of this Request is June 25, 2004 when Mr. Strong underwent a Placement of Peripheral Neuro Stimulator Leads and Receiver with use of Fluoroscopy at Eastern Idaho Regional Medical Center.

Health Care Providers

Information presently available to us is that the following are prospective defendants in professional liability litigation:

May. 23. 2006 9:53PM

Lowell Hawkes

No. 4745 P. 2

Nancy Kerr
May 23, 2006
Page 2

Marcus E. Murphy, M.D.
Intermountain Anesthesia, P.A.
1601 E. 17th Street
Idaho Falls, ID 83404

Any professional corporation or entity connected with any of the above are also prospective defendants in professional liability litigation.

Claim To Be Processed

On June 25, 2004 Mr. Tom Strong went to Eastern Idaho Regional Medical Center for the Placement of Peripheral Neuro Stimulator Leads and Receiver with use of Fluoroscopy. Intermountain Anesthesia, P.A. personnel improperly and negligently administered and monitored the administration of medication resulting in negative pressure pulmonary edema and the coughing up of significant amounts of blood.

Dr. Marcus E. Murphy of Intermountain Anesthesia, P.A. was the Anesthesiologist in charge of overseeing, monitoring, and insuring proper administration of anesthetic during this procedure. Dr. Murphy negligently failed to oversee and monitor the anesthesia personnel and monitoring the administration of medication resulting in negative pressure pulmonary edema and the coughing up of significant amounts of blood.

The above negligence resulted in undue and unnecessary pain and suffering of Mr. Strong and in violation of the duties owed to Mr. Strong.

Damages

The damages are those special and general damages, without limit, incidental to the professional liability claim asserted herein.

Sincerely,


LOWELL N. HAWKES

LNH/kj
cc: Tom Strong

EXHIBIT B



Idaho State Board of Medicine

PO Box 83720 Boise, ID 83720-0058

CONFIDENTIAL

June 6, 2006

38-06

Hawk v. Murphy, MD

TO: Concerned Persons, per attached list

FROM: Gloria Pedersen, Administrative Assistant
for Nancy Kerr, Executive Director

RE: PRELITIGATION SCREENING REQUEST

1. Request for hearing in the above matter was received May 24, 2006. Enclosed is a copy of the claim,
2. Kelly K. Kumm, Attorney at Law, has accepted appointment as panel chairman in the above matter.
3. All parties will be notified when hearing is scheduled.
4. To facilitate scheduling, please notify this office and the panel chairman of the names of **defense counsel** promptly. Defendants are asked to notify insurers. Claimant and defense attorneys are requested to furnish panel Chairman Kumm, with dates during the next four months when they would be **unavailable** for a hearing. Please mail calendars to the chairman at the following address, within the next 21 days: **1305 E Center, Pocatello ID 83201, telephone (208) 232-4051, fax (208) 232-2880.**
5. For non-members of the Idaho State Bar to appear before agency proceedings in this state, it is necessary to have an active member of the Idaho Bar associated and present. Claimant may appear pro se.
6. All parties will be notified when hearing is scheduled.

GP/jw

Attachments: 3

\$


38-06 Hawk v Murphy, MD

On June 6, 2006, a copy of the claim in the above matter was mailed by regular U.S. Mail and marked **CONFIDENTIAL** to all interested parties as follow:

Lowell N Hawkes
Attorney at Law
1322 East Center
Pocatello ID 83201

Marcus Edward Murphy MD
7654 S Cliffside
Idaho Falls ID 83406

Kelly K Kumm
Attorney at Law
1305 E Center
Pocatello ID 83201


Nancy Kerr, Executive Director
Idaho State Board of Medicine

NK/gp

May. 23. 2006 9:53PM Lowell Hawkes

No. 4746 P. 1/2
RECEIVED

Law Offices of
LOWELL N. HAWKES, CHARTERED
1322 East Center
Pocatello, Idaho 83201
(208) 235-1600

Licensed in Idaho and Utah

MAY 24 2006
IDAHO STATE BOARD
OF MEDICINE
Fax (208) 235-4200

May 23, 2006

VIA FAX (208) 327-7005

Ms. Nancy Kerr, Executive Director
Idaho State Board of Medicine
1755 Westgate Drive, Suite 140
P.O. Box 83720
Boise, Idaho 83704

Re: Prelitigation Hearing Panel Request
Patient: Brian Hawk

[REDACTED]
Date of Procedure: June 25, 2004

Dear Ms. Kerr:

Please consider this letter as a formal request on behalf Brian Hawk, pursuant to *Idaho Code* §6-1001, et seq., for a Prelitigation Hearing Panel. Your prompt acknowledgment of this Request and scheduling of a hearing will be appreciated.

Patient and Dates

The patient at issue is Brian Hawk, a resident of Pocatello. The date that is the focus of this Request is June 25, 2004 when Mr. Hawk underwent a Placement of Peripheral Neuro Stimulator Leads and Receiver with use of Fluoroscopy at Eastern Idaho Regional Medical Center.

Health Care Providers

Information presently available to us is that the following are prospective defendants in professional liability litigation:

May. 23. 2006 9:53PM

Lowell Hawkes

No. 4746 P. 2/2

Nancy Kerr
May 23, 2006
Page 2

Marcus E. Murphy, M.D.
Intermountain Anesthesia, P.A.
1601 E. 17th Street
Idaho Falls, ID 83404

Any professional corporation or entity connected with any of the above are also prospective defendants in professional liability litigation.

Claim To Be Processed

On June 25, 2004 Mr. Brian Hawk went to Eastern Idaho Regional Medical Center for the Placement of Peripheral Neuro Stimulator Leads and Receiver with use of Fluoroscopy. Dr. Marcus E. Murphy of Intermountain Anesthesia, P.A. was the Anesthesiologist in charge of overseeing, monitoring, and insuring proper administration of anesthetic during this procedure.

Dr. Murphy negligently failed to properly medicate and anaesthetize Mr. Hawk resulting in undue and unnecessary pain and suffering in violation of the duties owed to Mr. Hawk. Dr. Murphy refused the requests of Mr. Hawk and other medical personnel to properly medicate Mr. Hawk. The Nurse Anesthetists conveyed that Dr. Murphy refused to allow additional medication. The Nurse Anesthetists were at all times working under the direction, control, and responsibility of Dr. Murphy.

Damages

The damages are those special and general damages, without limit, incidental to the professional liability claim asserted herein.

Sincerely,


LOWELL N. HAWKES

LNH/kj
cc: Brian Hawk

EXHIBIT C

37-06 Strong v. Murphy, MD


On November 20, 2006, a copy of the attached and foregoing executed Report and Recommendation in the above matter was mailed by regular U.S. Mail and marked **CONFIDENTIAL** to all interested parties as follow:

Lowell N Hawkes
Attorney at Law
1322 East Center
Pocatello ID 83201

Marcus Edward Murphy MD
7654 S Cliffside
Idaho Falls ID 83406

- - - Richard E Hall
Attorney at Law
PO Box 1271
Boise ID 83701

Brent O Roche
Attorney at Law
PO Box 1391
Pocatello ID 83204-1391


Nancy Kerr, Executive Director
Idaho State Board of Medicine

NK/gp

EXHIBIT D

38-06 Hawk v. Murphy, MD

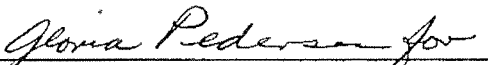
On November 20, 2006, a copy of the attached and foregoing executed Report and Recommendation in the above matter was mailed by regular U.S. Mail and marked **CONFIDENTIAL** to all interested parties as follow:

Lowell N Hawkes
Attorney at Law
1322 East Center
Pocatello ID 83201

Marcus Edward Murphy MD
7654 S Cliffside
Idaho Falls ID 83406

- - - Richard E Hall
Attorney at Law
PO Box 1271
Boise ID 83701

Brent O Roche
Attorney at Law
PO Box 1391
Pocatello ID 83204-1391



Nancy Kerr, Executive Director
Idaho State Board of Medicine

NK/gp

KEVIN J. SCANLAN
ISB #5521; kjs@hallfarley.com
MARK J. ORLER
ISB #7476; mjo@hallfarley.com
HALL, FARLEY, OBERRECHT & BLANTON, P.A.
702 West Idaho, Suite 700
Post Office Box 1271
Boise, Idaho 83701
Telephone: (208) 395-8500
Facsimile: (208) 395-8585
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7 FEB -6 10:29

Attorneys for Defendant Marcus E. Murphy, M.D.

IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNEVILLE

THOMAS L. STRONG, and BRIAN K.
HAWK,

Plaintiffs,

vs.

INTERMOUNTAIN ANESTHESIA, P.A. and
MARCUS E. MURPHY, M.D.,

Defendants.

Case No. CV 06-7149

NOTICE OF APPEARANCE

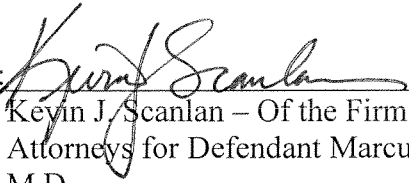
ORIGINAL

Hall, Farley, Oberrecht & Blanton, P.A., hereby gives Notice of Appearance on behalf of defendants MARCUS E. MURPHY, M.D. in this cause of action, and requests that all documents and pleadings filed herein be served upon said attorneys at Post Office Box 1271, Boise, Idaho 83701-1271.

The defendant hereby specifically reserves all defenses as to lack of jurisdiction over the subject matter, lack of jurisdiction over the person, improper venue, insufficiency of process, insufficiency of service of process, failure to state a claim upon which relief can be granted, failure to join an indispensable party and any other defense available to said defendant.

DATED this 5 day of February, 2007.

HALL, FARLEY, OBERRECHT &
BLANTON, P.A.

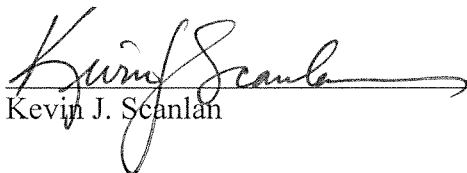
By: 
Kevin J. Scanlan – Of the Firm
Attorneys for Defendant Marcus E. Murphy,
M.D.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 5 day of February, 2007, I caused to be served a true copy of the foregoing **NOTICE OF APPEARANCE**, by the method indicated below, and addressed to each of the following:

Lowell N. Hawkes
Ryan S. Lewis
Lowell N. Hawkes, Chartered
1322 East Center
Pocatello, ID 83201
Facsimile (208) 235-4200

- ☐ U.S. Mail, Postage Prepaid
☐ Hand Delivered
☐ Overnight Mail
☒ Telecopy



Kevin J. Scanlan

KEVIN J. SCANLAN
ISB #5521; kjs@hallfarley.com
MARK J. ORLER
ISB #7476; mjo@hallfarley.com
HALL, FARLEY, OBERRECHT & BLANTON, P.A.
702 West Idaho, Suite 700
Post Office Box 1271
Boise, Idaho 83701
Telephone: (208) 395-8500
Facsimile: (208) 395-8585
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2007 FEB -7 AM 11:07

DISTRICT COURT
MAGISTRATE DIVISION
BONNEVILLE COUNTY
IDAHO

Attorneys for Defendants Intermountain Anesthesia, P.A.
and Marcus E. Murphy, M.D.

IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNEVILLE

THOMAS L. STRONG, and BRIAN K.
HAWK,

Plaintiffs,

vs.

INTERMOUNTAIN ANESTHESIA, P.A. and
MARCUS E. MURPHY, M.D.,

Defendants.

Case No. CV 06-7149


NOTICE OF HEARING

ORIGINAL

PLEASE TAKE NOTICE defendant INTERMOUNTAIN ANESTHESIA, P.A., by and through its counsel of record, Hall, Farley, Oberrecht & Blanton, P.A., has set before this Court to be heard its Motion to Dismiss. Said hearing shall be heard before the Honorable Richard T. St. Clair on the 13th day of March, 2007 at the hour of 8:30 a.m. or soon thereafter as counsel may be heard.

DATED this 5 day of February, 2007.

HALL, FARLEY, OBERRECHT &
BLANTON, P.A.

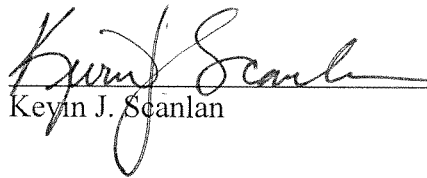
By: 
Kevin J. Scanlan – Of the Firm
Attorneys for Defendants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 5 day of February, 2007, I caused to be served a true copy of the foregoing **NOTICE OF HEARING**, by the method indicated below, and addressed to each of the following:

Lowell N. Hawkes
Ryan S. Lewis
Lowell N. Hawkes, Chartered
1322 East Center
Pocatello, ID 83201
Facsimile (208) 235-4200

- ☒ U.S. Mail, Postage Prepaid
☐ Hand Delivered
☐ Overnight Mail
☐ Telecopy



Kevin J. Scanlan

KEVIN J. SCANLAN
ISB #5521; kjs@hallfarley.com
MARK J. ORLER
ISB #7476; mjo@hallfarley.com
HALL, FARLEY, OBERRECHT & BLANTON, P.A.
702 West Idaho, Suite 700
Post Office Box 1271
Boise, Idaho 83701
Telephone: (208) 395-8500
Facsimile: (208) 395-8585
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2007 FEB 13 PM 4:27

CLERK OF DISTRICT COURT
BOISE, IDAHO

Attorneys for Defendants

IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNEVILLE

THOMAS L. STRONG, and BRIAN K.
HAWK,

Plaintiffs,

vs.

INTERMOUNTAIN ANESTHESIA, P.A. and
MARCUS E. MURPHY, M.D.,

Defendants.

Case No. CV 06-7149

**MEMORANDUM IN SUPPORT OF
DEFENDANTS' MOTION TO
STRIKE**

COME NOW defendants, Intermountain Anesthesia, P.A. and Marcus E. Murphy, M.D.
(collectively "defendants"), by and through their counsel of record, Hall, Farley, Oberrecht &
Blanton, P.A., and in support of their Motion to Strike, state as follows:

I. INTRODUCTION

On December 20, 2006, plaintiffs filed their Complaint and Jury Demand ("Complaint")
in this matter, naming as defendants Intermountain Anesthesia, P.A. and Marcus E. Murphy,
M.D. On January 17, 2007, Intermountain Anesthesia filed a motion to dismiss on the grounds
that plaintiffs' claims against it are time-barred. A hearing on that motion is currently scheduled

to be heard before this Court on Tuesday, March 13, 2007. Contemporaneously with the filing of this Motion to Strike, Dr. Murphy has filed his Answer to plaintiffs' Complaint. Defendants now also move this Court for an order striking certain argumentatively unnecessary and objectionable headings contained in the plaintiffs' Complaint, as the pleading of such headings are unnecessary and objectionable and they constitute redundant, immaterial and impertinent verbiage.

II. ARGUMENT

Rule 12(f) of the Idaho Rules of Civil Procedure states:

Upon motion made by a party before responding to a pleading or, if no responsive pleading is permitted by these rules, upon motion made by a party within twenty (20) days after the service of the pleading upon the party or upon the court's own initiative at any time, the court may order stricken from any pleading any insufficient defense or *any redundant, immaterial, impertinent* or scandalous matter.

Idaho R. Civ. P. 12(f) (emphasis added). It has been recognized that, while Rule 12(f) technically requires that a motion to strike be made before pleading, a motion to strike may be submitted simultaneously with a party's answer on the premise that this will avoid protracted pretrial procedures. See 5A Charles A. Wright & Arthur R. Miller, *Federal Practice and Procedure* § 1380 (1990).

A Complaint need only contain a concise statement of the facts constituting the cause of action asserted and a demand for relief. Idaho R. Civ. P. 8(a)(1). The purpose of a Complaint is to inform the defendant of the material facts upon which the plaintiff bases his action. *Fox v. Cogswright*, 64 Idaho 448, 454, 133 P.2d 930, 932-33 (1943). "A motion to strike can be used, with respect to a complaint, only to eliminate unnecessary or objectionable verbiage." *Stewart v. Arrington Construction Co.*, 92 Idaho 526, 530, 446 P.2d 895, 899 (1968). In the instant matter, the plaintiffs' Complaint offers a textbook example of counsel inundating a Complaint with

“unnecessary and objectionable verbage,” as referenced by the *Stewart* Court. The headings contained in plaintiffs’ Complaint are argumentative, and nothing more than inappropriate, self-serving, superfluous, inflammatory commentary that are not factual in nature. Moreover, the use of these headings violates the purpose of a Complaint, which is to provide the defendants in this matter with *material facts* upon which plaintiffs’ allegations are based. Accordingly, such headings should be stricken by this Court as they are entirely unnecessary and objectionable and due to their redundant, immaterial, and impertinent nature.

A “redundant” matter consists of allegations that constitute a needless repetition of other averments. *Manhattan Fire and Marine Ins. Co. v. Nassau Estates II*, 217 F. Supp. 196 (D.N.J. 1963). An “immaterial” matter has no essential or important relationship to the claim for relief or defenses pleaded. *Fantasy, Inc. v. Fogerty*, 984 F.2d 1524, 1527 (9th Cir. 1993), *rev’d on other grounds*, *Fogerty v. Fantasy, Inc.*, 510 U.S. 517 (1994). And an “impertinent” matter consists of statements that do not pertain and are unnecessary to the issues in question. *Id.* Beginning with the heading entitled “Medical Injury Facts” on page two of plaintiffs’ Complaint, plaintiffs’ take the liberty of introducing, albeit unnecessarily, almost every paragraph with their own argumentative heading, as if to suggest the averments that follow will be unable to speak for themselves. This practice is not only distracting, but makes it difficult for defendants to respond to since it is not a proper allegation.

Although it is not defendants’ intention to recite to the Court each and every one of plaintiffs’ unnecessary headings, some of the more creative—yet redundant, immaterial, and impertinent—headings are as follows: (1) the heading proceeding paragraph 12 entitled “I need some help over here!”; (2) the heading proceeding paragraph 13 “No wonder he obstructed”; (3) the heading proceeding paragraph 17 entitled “Retaliation for Their Own Negligence”; and (4)

the heading proceeding paragraph 20 entitled "We will keep you comfortable". Each of these headings is then followed by a lengthy paragraph(s) which are apparently intended to restate the alleged factual gist relating to each heading in more detail. Such practice is "redundant" in that it is a needless repetition of other averments; it is "immaterial" in that it bears no essential or important relationship to the claims for relief; and it is "impertinent" because these statements are unnecessary to the issues in question. Plaintiffs' Complaint, without the use of these headings, is more than adequate to meet the sufficiency of pleading requirements under the Idaho Rules of Civil Procedure. Consequently, these headings should be stricken from plaintiffs' Complaint.

III. CONCLUSION

Based upon the foregoing, defendants respectfully request that this Court enter an order striking from plaintiffs' Complaint the headings pled before paragraphs 5, 7, 8, 9, 10, 12, 13, 15, 17, 18, and 20 (pp. 2-7) of plaintiffs' Complaint.

DATED this 13 day of February, 2007.

HALL, FARLEY, OBERRECHT &
BLANTON, P.A.

By: 


Kevin J. Scanlan – Of the Firm
Mark J. Orler – Of the Firm
Attorneys for Defendants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 13 day of February, 2007, I caused to be served a true copy of the foregoing MEMORANDUM IN SUPPORT OF DEFENDANTS' MOTION TO STRIKE, by the method indicated below, and addressed to each of the following:

Lowell N. Hawkes
Ryan S. Lewis
Lowell N. Hawkes, Chartered
1322 East Center
Pocatello, ID 83201
Facsimile (208) 235-4200

☐ U.S. Mail, Postage Prepaid
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☐ Overnight Mail
☒ Telecopy



Kevin J. Scanlan
Mark J. Orler

KEVIN J. SCANLAN
ISB #5521; kjs@hallfarley.com
MARK J. ORLER
ISB #7476; mjo@hallfarley.com
HALL, FARLEY, OBERRECHT & BLANTON, P.A.
702 West Idaho, Suite 700
Post Office Box 1271
Boise, Idaho 83701
Telephone: (208) 395-8500
Facsimile: (208) 395-8585
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2007 FEB 13 PM 4:27

CLERK OF DISTRICT COURT
JUDICIAL DISTRICT NO. 1
BOISE, IDAHO

Attorneys for Defendants

IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNEVILLE

THOMAS L. STRONG, and BRIAN K.
HAWK,

Plaintiffs,

vs.

INTERMOUNTAIN ANESTHESIA, P.A. and
MARCUS E. MURPHY, M.D.,

Defendants.

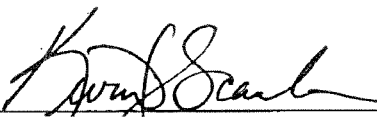
Case No. CV 06-7149

**DEFENDANTS' MOTION TO
STRIKE**

COME NOW defendants, Intermountain Anesthesia, P.A. and Marcus E. Murphy, M.D., by and through their counsel of record, Hall, Farley, Oberrecht & Blanton, P.A., and move this Court, pursuant to Rule 12(f) of the Idaho Rules of Civil Procedure, for an order striking headings pled before paragraphs 7, 8, 9, 10, 12, 13, 15, 17, 18, and 20 (pp. 3-7) of plaintiffs' Complaint. This motion is made on the ground and for the reason that the pleading of such headings by plaintiffs is redundant, immaterial and impertinent pursuant to Rule 12(f) of the Idaho Rules of Civil Procedure. This motion is supported by the pleadings on file herein, and the Memorandum in Support of Defendants' Motion to Strike, filed contemporaneously herewith.

DATED this 13 day of February, 2007.

HALL, FARLEY, OBERRECHT &
BLANTON, P.A.

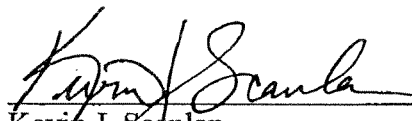
By: 
Kevin J. Scanlan – Of the Firm
Mark J. Orlor – Of the Firm
Attorneys for Defendants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 13 day of February, 2007, I caused to be served a true copy of the foregoing DEFENDANTS' MOTION TO STRIKE, by the method indicated below, and addressed to each of the following:

Lowell N. Hawkes
Ryan S. Lewis
Lowell N. Hawkes, Chartered
1322 East Center
Pocatello, ID 83201
Facsimile (208) 235-4200

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Kevin J. Scanlan
Mark J. Orler

KEVIN J. SCANLAN
ISB #5521; kjs@hallfarley.com
MARK J. ORLER
ISB #7476; mjo@hallfarley.com
HALL, FARLEY, OBERRECHT & BLANTON, P.A.
702 West Idaho, Suite 700
Post Office Box 1271
Boise, Idaho 83701
Telephone: (208) 395-8500
Facsimile: (208) 395-8585
W:\3\3-235.8\Dr. Murphy Answer.doc

2007 FEB 14 AM 8:03
CLERK OF DISTRICT COURT
DISTRICT OF IDAHO
BOISE, IDAHO

Attorneys for Defendant Marcus E. Murphy, M.D.

IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNEVILLE

THOMAS L. STRONG, and BRIAN K.
HAWK,

Plaintiffs,

vs.

INTERMOUNTAIN ANESTHESIA, P.A. and
MARCUS E. MURPHY, M.D.,

Defendants.

Case No. CV 06-7149

**MARCUS E. MURPHY, M.D.'S
ANSWER TO COMPLAINT AND
JURY DEMAND**

COMES NOW the defendant MARCUS E. MURPHY, M.D. ("Dr. Murphy"), by and through his counsel of record, Hall, Farley, Oberrecht & Blanton, P.A., and in answer to plaintiffs' Complaint and Jury Demand ("Complaint") on file herein, answers, states, and alleges as follows:

FIRST DEFENSE

Plaintiffs' Complaint, and each and every allegation contained therein, fails to state a claim upon which relief can be granted.

SECOND DEFENSE

Dr. Murphy denies each and every allegation in plaintiffs' Complaint except those specifically admitted herein.

THIRD DEFENSE

Dr. Murphy objects to the headings employed in plaintiffs' Complaint, as they are unnecessary and objectionable and they constitute redundant, immaterial and impertinent verbiage. While defendant does not believe any specific response is required to such headings, to the extent a response is necessary, each such heading is specifically denied. To address this issue, Dr. Murphy has contemporaneously filed a motion to strike the headings with this Answer.

FOURTH DEFENSE

With respect to the specific allegations contained in plaintiffs' Complaint, Dr. Murphy responds as follows:

I.

Dr. Murphy is without sufficient information or knowledge to admit or deny the allegations in paragraph 1 of plaintiffs' Complaint and, therefore, denies the same.

II.

Dr. Murphy is without sufficient information or knowledge to admit or deny the allegations in paragraph 2 of plaintiffs' Complaint and, therefore, denies the same.

III.

Dr. Murphy admits the allegations contained in paragraph 3 of plaintiffs' Complaint.

IV.

Dr. Murphy avers that the duties owed by him to patients are set forth in Idaho Code § 6-1012, and denies the allegations contained in paragraph 4 to the extent they are inconsistent with

such statute. Dr. Murphy denies the remaining allegations contained in paragraph 4 of plaintiffs' Complaint.

V.

With respect to the allegations contained in paragraph 5 of plaintiffs' Complaint, Dr. Murphy admits only that Mr. Strong and Mr. Hawk were scheduled for the surgical implant of spinal/peripheral nerve stimulators and that Dr. Catherine Linderman was the surgeon scheduled to perform the procedures. Dr. Murphy denies the remaining allegations contained in paragraph 5 of plaintiffs' Complaint.

VI.

Dr. Murphy denies any and all allegations contained in paragraph 6 of plaintiffs' Complaint.

VII.

Paragraph 7 of plaintiffs' Complaint does not appear to contain any allegations for which a response is required from this answering defendant. To the extent a response is required from Dr. Murphy, Dr. Murphy denies the allegations in paragraph 7 of plaintiffs' Complaint based upon either a lack of sufficient information or knowledge to admit or deny the allegations or a belief that the allegations are untrue.

VIII.

Paragraph 8 of plaintiffs' Complaint does not appear to contain any allegations for which a response is required. To the extent a response is required from Dr. Murphy, Dr. Murphy denies the allegations in paragraph 8 of plaintiffs' Complaint based upon either a lack of sufficient information or knowledge to admit or deny the allegations or a belief that the allegations are untrue.

IX.

With respect to the allegations contained in paragraph 9 of plaintiffs' Complaint, Dr. Murphy admits only that CRNA Mary Waight was the primary anesthesia care provider for Mr. Strong. Dr. Murphy denies the remaining allegations contained in paragraph 9 of plaintiffs' Complaint based upon either a lack of sufficient information or knowledge to admit or deny the allegations or a belief that the allegations are untrue.

X.

Dr. Murphy is without sufficient information or knowledge to admit or deny the allegations in paragraph 10 of plaintiffs' Complaint and, therefore, denies the same.

XI.

Dr. Murphy admits that CRNA Schmalz participated in the care of Mr. Strong; however, denies any and all remaining allegations contained in paragraph 11 of plaintiffs' Complaint based upon either a lack of sufficient information or knowledge to admit or deny the allegations or a belief that the allegations are untrue.

XII.

Dr. Murphy denies any and all allegations contained in paragraph 12 of plaintiffs' Complaint.

XIII.

Paragraph 13 of plaintiffs' Complaint does not appear to contain any allegations for which a response is required. To the extent a response is required from Dr. Murphy, Dr. Murphy is without sufficient information or knowledge to admit or deny the allegations in paragraph 13 of plaintiffs' Complaint and, therefore, denies the same.

XIV.

Dr. Murphy states that the allegations contained in paragraph 14 of plaintiffs' Complaint are not factual averments, but legal conclusions to which no response is required. To the extent that any response thereto is required, Dr. Murphy denies any and all allegations contained in paragraph 14 of plaintiffs' Complaint.

XV.

Dr. Murphy denies any and all allegations contained in paragraph 15 of plaintiffs' Complaint.

XVI.

Paragraph 16 of plaintiffs' Complaint does not appear to contain any allegations for which a response is required. To the extent a response is required from Dr. Murphy, Dr. Murphy denies any and all allegations contained in paragraph 16 of plaintiffs' Complaint.

XVII.

Dr. Murphy denies any and all allegations contained in paragraph 17 of plaintiffs' Complaint.

XVIII.

Dr. Murphy denies any and all allegations contained in paragraph 18 of plaintiffs' Complaint.

XIX.

Dr. Murphy denies any and all allegations contained in paragraph 19 of plaintiffs' Complaint.

XX.

Dr. Murphy denies any and all allegations contained in paragraph 20 of plaintiffs'

Complaint.

XXI.

With respect to the allegations contained in paragraph 21 of plaintiffs' Complaint, Dr. Murphy admits only that CRNA Jeff Taylor was the primary anesthesia care provider for Mr. Hawk. Dr. Murphy denies the remaining allegations contained in paragraph 21 of plaintiffs' Complaint.

XXII.

Dr. Murphy states that the allegations contained in paragraph 22 of plaintiffs' Complaint are not factual averments, but legal conclusions to which no response is required. To the extent that any response thereto is required, Dr. Murphy denies any and all allegations contained in paragraph 22 of plaintiffs' Complaint.

XXIII.

Dr. Murphy is not required to respond to paragraph 23 of plaintiffs' Complaint, but to the extent that a response is necessary, Dr. Murphy denies the same.

XXIV.

Dr. Murphy states that the allegations contained in paragraph 24 of plaintiffs' Complaint are not factual averments, but legal conclusions to which no response is required. To the extent that any response thereto is required, Dr. Murphy denies the allegations as set forth in paragraph 24 of plaintiffs' Complaint.

XXV.

Dr. Murphy denies any and all allegations contained in paragraph 25 of plaintiffs' Complaint.

AFFIRMATIVE DEFENSES

By pleading certain defenses as "affirmative defenses," Dr. Murphy does not imply that he has the burden of proof for any such defense. Furthermore, as Dr. Murphy has not had the opportunity to conduct discovery in this case, Dr. Murphy, by failing to raise an affirmative defense, does not waive any such defense and specifically reserves the right to amend his answer to include additional affirmative defenses.

FIRST AFFIRMATIVE DEFENSE

The allegations in plaintiffs' Complaint fail to state a claim upon which relief may be granted against Dr. Murphy.

SECOND AFFIRMATIVE DEFENSE

Plaintiffs failed to take reasonable steps to mitigate the damages, if any, and to protect themselves from avoidable consequences; plaintiffs' right to recovery, if any, is thereby reduced or barred.

THIRD AFFIRMATIVE DEFENSE

The plaintiffs' injuries and damages, if any, were proximately caused, in whole or in part, by the acts or omissions of Mr. Strong and/or Mr. Hawk or persons or entities other than Dr. Murphy. As such, those acts or omissions constitute intervening, superseding causes of the damages alleged by the plaintiffs and preclude the plaintiff's recovery from Dr. Murphy.

FOURTH AFFIRMATIVE DEFENSE

The acts or omissions of Mr. Strong and/or Mr. Hawk or persons or entities other than Dr. Murphy constitute comparative negligence, which bars or reduces plaintiff's recovery against Dr. Murphy, if any, pursuant to Idaho Code § 6-801 and other applicable law.

FIFTH AFFIRMATIVE DEFENSE

Dr. Murphy's treatment of plaintiffs at all times met the applicable standard of care.

SIXTH AFFIRMATIVE DEFENSE

No act or omission of Dr. Murphy caused any damage to plaintiffs.

SEVENTH AFFIRMATIVE DEFENSE

Plaintiffs' claims are limited by Idaho Code §§ 6-1602, 6-1603, 6-1604, and 6-1606.

EIGHTH AFFIRMATIVE DEFENSE

Plaintiffs' alleged damages, if any, were caused, in whole or in part, by a pre-existing condition, or the progression thereof, and not by the alleged negligence or fault of Dr. Murphy.

NINTH AFFIRMATIVE DEFENSE

The damages alleged to have been suffered by plaintiffs, if any, were caused by superseding and/or intervening causes for which Dr. Murphy is not responsible.

REQUEST FOR ATTORNEY'S FEES

To defend against plaintiffs' Complaint, defendant Dr. Murphy has been required to retain the services of counsel, and pursuant to Idaho Code Sections 12-120, 12-121, 12-123, and the Idaho Rules of Civil Procedure, defendant Dr. Murphy is entitled to his reasonable attorney's fees, costs, and disbursements incurred in the defense of this action.

DEMAND FOR JURY TRIAL

Pursuant to Idaho law, Dr. Murphy demands a trial by a jury for all issues so triable.

WHEREFORE, Dr. Murphy prays for judgment as follows:

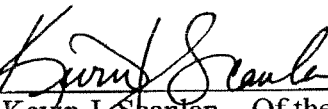
1. That plaintiffs' Complaint be dismissed against Dr. Murphy with prejudice and that plaintiffs take nothing thereby;

2. That Dr. Murphy be awarded his costs and reasonable attorney's fees incurred in this action; and

3. For such other and further relief as the Court deems just and equitable.

DATED this 13 day of February, 2007.

HALL, FARLEY, OBERRECHT &
BLANTON, P.A.

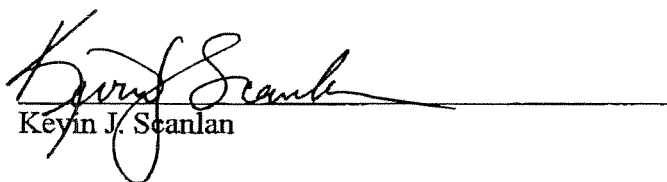
By: 
Kevin J. Scanlan – Of the Firm
Mark J. Orlor – Of the Firm
Attorneys for Defendant Marcus E. Murphy,
M.D.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 13 day of February, 2007, I caused to be served a true copy of the foregoing MARCUS E. MURPHY, M.D.'S ANSWER TO COMPLAINT AND JURY DEMAND, by the method indicated below, and addressed to each of the following:

Lowell N. Hawkes
Ryan S. Lewis
Lowell N. Hawkes, Chartered
1322 East Center
Pocatello, ID 83201
Facsimile (208) 235-4200

- ☐ U.S. Mail, Postage Prepaid
☐ Hand Delivered
☐ Overnight Mail
☒ Telecopy


Kevin J. Scanlan

KEVIN J. SCANLAN
ISB #5521; kjs@hallfarley.com
MARK J. ORLER
ISB #7476; mjo@hallfarley.com
HALL, FARLEY, OBERRECHT & BLANTON, P.A.
702 West Idaho, Suite 700
Post Office Box 1271
Boise, Idaho 83701
Telephone: (208) 395-8500
Facsimile: (208) 395-8585
W:\3\3-235.8\Strike-Noh.doc

2007 FEB 27 PM 1:51

DISTRICT COURT
MAGISTRATE DIVISION
BONNEVILLE COUNTY
IDAHO

Attorneys for Defendants Intermountain Anesthesia, P.A.
and Marcus E. Murphy, M.D.

IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNEVILLE

THOMAS L. STRONG, and BRIAN K.
HAWK,

Plaintiffs,

vs.

INTERMOUNTAIN ANESTHESIA, P.A. and
MARCUS E. MURPHY, M.D.,

Defendants.

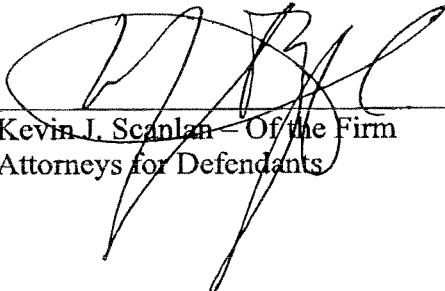
Case No. CV 06-7149

NOTICE OF HEARING

PLEASE TAKE NOTICE defendant INTERMOUNTAIN ANESTHESIA, P.A., by and through its counsel of record, Hall, Farley, Oberrecht & Blanton, P.A., has set before this Court to be heard its Motion to Strike. Said hearing shall be heard before the Honorable Richard T. St. Clair on the 13th day of March, 2007 at the hour of 8:30 a.m. or soon thereafter as counsel may be heard.

DATED this 27th day of February, 2007.

HALL, FARLEY, OBERRECHT &
BLANTON, P.A.

By:  #6432
Kevin J. Scanlan - Of the Firm
Attorneys for Defendants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 27th day of February, 2007, I caused to be served a true copy of the foregoing **NOTICE OF HEARING**, by the method indicated below, and addressed to each of the following:

Lowell N. Hawkes
Ryan S. Lewis
Lowell N. Hawkes, Chartered
1322 East Center
Pocatello, ID 83201
Facsimile (208) 235-4200

- ☐ U.S. Mail, Postage Prepaid
☐ Hand Delivered
☐ Overnight Mail
☒ Telecopy



Kevin J. Scanlan

Lowell N. Hawkes (ISB #1852)
Ryan S. Lewis (ISB #6775)
LOWELL N. HAWKES, CHARTERED
1322 East Center
Pocatello, Idaho 83201
Telephone: (208) 235-1600
FAX: (208) 235-4200
Attorneys for Plaintiffs

2007 MAR -7 PM 2:38

DEPT. OF CLERK
MAGISTRATE DIVISION
BONNEVILLE COUNTY

**IN THE SEVENTH JUDICIAL DISTRICT COURT
BONNEVILLE COUNTY, IDAHO**
The Honorable Richard T. St. Clair

THOMAS L. STRONG and
BRIAN K. HAWK,

Plaintiffs,

vs.

INTERMOUNTAIN ANESTHESIA, P.A.
AND MARCUS E. MURPHY, M.D.,

Defendants.

Case No. CV-06-7149

**AFFIDAVIT OF COUNSEL
RE BANKRUPTCY STAY**
(Brian K. Hawk
Idaho Bankruptcy Filing
Case No. 06-40526-JDP)

STATE OF IDAHO)
: ss
BANNOCK COUNTY)

LOWELL N. HAWKES, being first duly sworn states as follows:

1. I am counsel for Plaintiffs herein and make this *Affidavit* on personal and professional knowledge and with regard to the *Defendants' Motion to Strike* and *Defendant Intermountain Anesthesia, P.A.'s Motion to Dismiss*.

2. I am counsel of record for both Plaintiffs on the *Complaint And Jury Demand* filed herein.

3. After the filing of the *Complaint And Jury Demand* herein I became aware that the Plaintiff Brian Hawk had filed an Idaho Bankruptcy proceeding, Bankruptcy Case No. 06-40526. Attached to this Affidavit as **Exhibit A** is a copy of the first page of the federal Docket Sheet for Mr. Hawk's Bankruptcy Petition.

4. On January 23, 2007 I sent a fax letter to Defense counsel, Kevin Scanlan (attached as **Exhibit B**) advising of the bankruptcy filing stating:

After we filed this case we learned that Brian Hawk had filed Bankruptcy. It is Case No. 06-40526.

I am in touch with the Trustee but have not yet been authorized as special counsel.

5. The *Notice of Hearing* on the *Motion to Dismiss* was served on February 5, 2007 — *after* I gave Defense counsel the above actual notice of the bankruptcy filing.

6. The *Defendants' Motion to Strike* was also served after I gave notice of the bankruptcy stay with the *Defendants' Motion to Strike* dated February 13, 2007 and the *Notice of Hearing* on that Motion served February 27, 2007. Those dual filings shortly after *actual* notice evidence an intent to evade the automatic stay provisions of 28 U.S.C. § 362(a).

7. The automatic stay under federal law has never been lifted as to the *Complaint And Jury Demand* herein. The automatic stay is not a specific document in the bankruptcy filings but is automatic under federal pursuant to 28 U.S.C. § 362(a)

8. The events and claims of both Plaintiffs are intertwined with the negligent conduct of Defendants and within a few hours on the same day — June 26, 2004 — when Dr. Catherine Linderman had six patients scheduled for the surgical implant of pain-stopping spinal or peripheral nerve stimulators at EIRMC in Idaho Falls. The essence of the *Complaint And Jury Demand* herein is that, because of being called on the negligence in the anesthesia treatment of Plaintiff Strong, Defendants retaliated against the remaining five scheduled patients of Dr. Linderman, including Plaintiff Brian K. Hawk.

9. As of this date there has never been any filing by the Defendants herein to secure release from the bankruptcy automatic stay provisions of federal law under 28 U.S.C. § 362(a) in order to file or hear motions in this State case.

10. I am neither bankruptcy counsel for Mr. Hawk nor for the Trustee in that bankruptcy filing. To the extent that Defendants' post-notice-of-bankruptcy filings have effectively placed me in the position of advising this Court of that Bankruptcy, I specifically do *not* by this filing intend to interfere with nor waive on behalf of Mr. Hawk *any* of his federal rights under 28 U.S.C. § 362(a) including sanctions for taking prohibited legal action seeking to affect an asset of the bankruptcy estate.

11. Both of the Plaintiffs' claims herein are so closely intertwined factually with each other that the interests of both would be damaged if not permitted to be tried together for these events that occurred essentially together and as a result of the same wrongs alleged.

12. As of this date the federal Bankruptcy Judge Jim D. Pappas has not lifted the automatic stay nor authorized me or anyone else to represent the claim of Mr. Hawk as set forth in the *Complaint And Jury Demand* herein. Pending entry of such a specific Order, any attempted legal proceeding outside the Bankruptcy Court's jurisdiction is prohibited and in violation of 28 U.S. Code § 362(a).

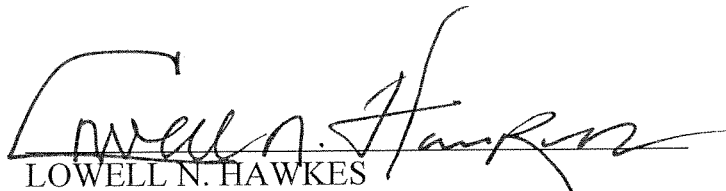
13. For the record, my position with regard to those motions noticed up for hearing on March 13, 2007 following *actual* notice of the pending bankruptcy of Mr. Hawk, is that they were and are wrongfully before the Court and in violation of 28 U.S. Code § 362(a).

14. I am willing to cooperate with bankruptcy-authorized counsel for Mr. Hawk as to the pending motions for which, based on prior experience with these issues, I believe can be successfully responded to. However, I do not have that authority and do *not* consent to any hearings *absent specific Bankruptcy Court authority* for these intertwined claims.

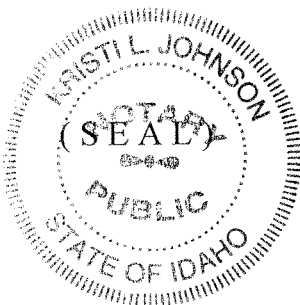
15. Pursuant to federal law, Judge Pappas has the authority to try the claim of Mr. Hawk in federal Bankruptcy Court or to lift the stay and allow it to proceed before

this Court. In the event of the latter, I request a reasonable time to respond to the motions now improperly noticed before this Court.

DATED this 6th day of March, 2007.


LOWELL N. HAWKES

SUBSCRIBED AND SWORN TO before me March 6, 2007.



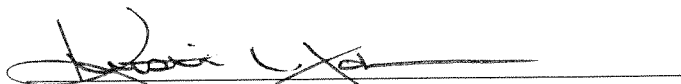

NOTARY PUBLIC for Idaho
Residing at Pocatello
My Commission Expires April 21, 2009

Exhibit A

707(b)

U.S. Bankruptcy Court
District of Idaho [LIVE] (Pocatello)
Bankruptcy Petition #: 06-40526-JDP

Assigned to: Jim D Pappas
Chapter 7
Voluntary
No asset

Date Filed: 10/09/2006

Debtor

Brian K Hawk
1185 Spruce St
Pocatello, ID 83201

represented by **Craig R Jorgensen**
POB 4904
Pocatello, ID 83205-4904
(208) 237-4100
Fax : (208)237-1706
Email:
biggunlaw@cableone.net

Joint Debtor

Mary Ellen Hawk
1185 Spruce St
Pocatello, ID 83201

represented by **Craig R Jorgensen**
(See above for address)

Trustee

R Sam Hopkins
POB 3014
Pocatello, ID 83206
208-478-7978

represented by **Janine P Reynard**
US TRUSTEE OFFICE
720 Park Blvd., Ste 220
Boise, ID 83712
(208) 334-1301
Fax : (208) 334-9756
Email:
Janine.P.Reynard@usdoj.gov

U.S. Trustee

US Trustee
Washington Group Central Plaza
720 Park Blvd, Ste 220
Boise, ID 83712
208-334-1300

Filing Date	#	Docket Text
10/09/2006	<u>1</u>	Chapter 7 Voluntary Petition . Receipt Number 705650, Fee Amount

Exhibit B

Law Offices of
LOWELL N. HAWKES, CHARTERED
1322 East Center
Pocatello, Idaho 83201
(208) 235-1600

Licensed in Idaho and Utah

Fax (208) 235-4200

January 23, 2007

VIA FAX 208-395-8585

Kevin J. Scanlan
Hall, Farley, Oberrecht, & Blanton, P.A.
702 W. Idaho Street, Suite 700
Boise, ID 83701

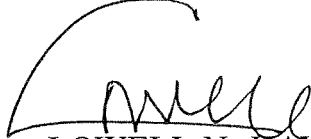
Re: *Strong & Hawk v. Intermountain Anesthesia, et al*

Dear Kevin:

After we filed this case we learned that Brian Hawk had filed Bankruptcy.
It is Case No. 06-40526.

I am in touch with the Trustee but have not yet been authorized as special
counsel.

Sincerely,



LOWELL N. HAWKES

LNH/kj
cc: Tom & Brian

* * * Memory TX Result Report (Jan. 23. 2007 2:17PM) * * *

1) Lowell Hawkes
2)

ate/Time: Jan. 23. 2007 2:16PM

file No. Mode	Destination	Pg(s)	Result	Page Not Sent
719 Memory TX	912083958585	P. 1	OK	

Reason for error

E. 1) Hang up or line fail

E. 3) No answer

E. 5) Exceeded max. E-mail size

E. 2) Busy

E. 4) No facsimile connection

Low Offices of
LOWELL N. HAWKES, CHARTERED
 1322 East Center
 Pocatello, Idaho 83201
 (208) 235-1600
 Licensed in Idaho and Utah
 Fax (208) 235-4200
 January 23, 2007

VIA FAX 208-395-8585

Kevin J. Scanlan
 Hall, Farley, Oberrecht, & Blanton, P.A.
 702 W. Idaho Street, Suite 700
 Boise, ID 83701

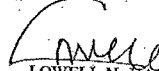
Re: *Strong & Hawk v. Intermountain Anesthesia, et al*

Dear Kevin:

After we filed this case we learned that Brian Hawk had filed Bankruptcy.
 It is Case No. 06-40526.

I am in touch with the Trustee but have not yet been authorized as special
 counsel.

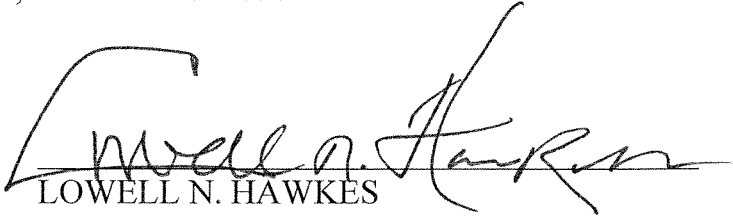
Sincerely,


 LOWELL N. HAWKES

LNH/kj
 cc: Tom & Brian

CERTIFICATE OF SERVICE

I certify that on this 6th day of March 2007 I faxed a copy of the foregoing to Kevin J. Scanlan, and Mark J. Orler of Hall, Farley, Oberrecht & Blanton, P.A., 702 West Idaho, Suite 700, Boise, ID 83701, FAX 208-395-8585.


LOWELL N. HAWKES

St. Clair

KEVIN J. SCANLAN
ISB #5521; kjs@hallfarley.com
MARK J. ORLER
ISB #7476; mjo@hallfarley.com
HALL, FARLEY, OBERRECHT & BLANTON, P.A.
702 West Idaho, Suite 700
Post Office Box 1271
Boise, Idaho 83701
Telephone: (208) 395-8500
Facsimile: (208) 395-8585
W:\3\3-235.8\Dismiss-Noh-Vacate.doc

2007 MAR 12 PM 12:15

DISTRICT COURT
MAGISTRATE DIVISION
BONNEVILLE COUNTY

Attorneys for Defendants Intermountain Anesthesia, P.A.
and Marcus E. Murphy, M.D.

IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNEVILLE

THOMAS L. STRONG, and BRIAN K.
HAWK,

Plaintiffs,

vs.

INTERMOUNTAIN ANESTHESIA, P.A. and
MARCUS E. MURPHY, M.D.,

Defendants.

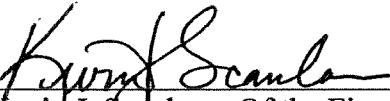
Case No. CV 06-7149

NOTICE OF HEARING VACATED

COME NOW defendants INTERMOUNTAIN ANESTHESIA, P.A. and MARCUS E. MURPHY, M.D., by and through their counsel of record, Hall, Farley, Oberrecht & Blanton, P.A., and hereby provides notice that the hearings on defendants Motion to Dismiss and Motion to Strike, set for February 13, 2007 at the hour of 8:30 a.m. are hereby **vacated** and will be reset at a later date convenient to the Court and counsel.

HALL, FARLEY, OBERRECHT &
BLANTON, P.A.

By:

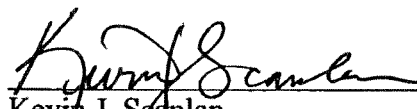

Kevin J. Scanlan -- Of the Firm
Attorneys for Defendants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 9th day of March, 2007, I caused to be served a true copy of the foregoing **NOTICE OF HEARING VACATED**, by the method indicated below, and addressed to each of the following:

Lowell N. Hawkes
Ryan S. Lewis
Lowell N. Hawkes, Chartered
1322 East Center
Pocatello, ID 83201
Facsimile (208) 235-4200

- ☐ U.S. Mail, Postage Prepaid
☐ Hand Delivered
☐ Overnight Mail
☒ Telecopy



Kevin J. Scanlan

RICHARD E. HALL
ISB #1253; reh@hallfarley.com
KEVIN J. SCANLAN
ISB #5521; kjs@hallfarley.com
HALL, FARLEY, OBERRECHT & BLANTON, P.A.
702 West Idaho, Suite 700
Post Office Box 1271
Boise, Idaho 83701
Telephone: (208) 395-8500
Facsimile: (208) 395-8585
V:\Closed Files\3\3-235.8\Stay - Motion.doc

2010 JUL -1 11:02
CLERK OF DISTRICT COURT
MAGISTRATE DIVISION
BOONE COUNTY

Attorneys for Defendants

IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNEVILLE

THOMAS L. STRONG, and BRIAN K.
HAWK,

Plaintiffs,

vs.

INTERMOUNTAIN ANESTHESIA, P.A. and
MARCUS E. MURPHY, M.D.,

Defendants.

Case No. CV 06-7149

MOTION TO LIFT STAY

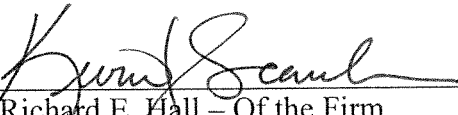
COME NOW defendants Intermountain Anesthesia, P.A. and Marcus E. Murphy, MD.
("defendants") by and through their counsel of record, Hall, Farley, Oberrecht & Blanton, P.A.,
and hereby respectfully moves the Court to Lift Stay.

In support of this motion, defendants submit the accompanying memorandum and
affidavits filed contemporaneously herewith.

ORIGINAL

DATED this 29th day of June, 2010.

HALL, FARLEY, OBERRECHT &
BLANTON, P.A.

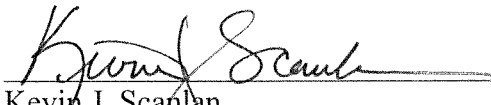
By: 
Richard E. Hall – Of the Firm
Kevin J. Scanlan – Of the Firm
Attorneys for Defendants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 29th day of June, 2010, I caused to be served a true copy of the foregoing **MOTION TO LIFT STAY**, by the method indicated below, and addressed to each of the following:

Lowell N. Hawkes
Ryan S. Lewis
Lowell N. Hawkes, Chartered
1322 East Center
Pocatello, ID 83201
Facsimile (208) 235-4200

- ☒ U.S. Mail, Postage Prepaid
- ☐ Hand Delivered
- ☐ Overnight Mail
- ☐ Telecopy



Kevin J. Scanlan

RICHARD E. HALL
ISB #1253; reh@hallfarley.com
KEVIN J. SCANLAN
ISB #5521; kjs@hallfarley.com
HALL, FARLEY, OBERRECHT & BLANTON, P.A.
702 West Idaho, Suite 700
Post Office Box 1271
Boise, Idaho 83701
Telephone: (208) 395-8500
Facsimile: (208) 395-8585
V:\Closed Files\3\3-235.8\Stay - Aff JRT.doc

2010 JUN -1 11:02
CLERK OF DISTRICT COURT
DIVISION
JURY

Attorneys for Defendants

IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNEVILLE

THOMAS L. STRONG, and BRIAN K.
HAWK,

Plaintiffs,

vs.

INTERMOUNTAIN ANESTHESIA, P.A. and
MARCUS E. MURPHY, M.D.,

Defendants.

Case No. CV 06-7149

**AFFIDAVIT OF JEFFREY R.
TOWNSEND IN SUPPORT OF
DEFENDANTS' MOTION TO LIFT
STAY**

STATE OF IDAHO)
) ss.
County of Ada)

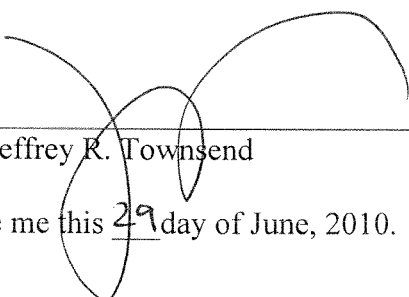
I, Jeffrey R. Townsend, being first duly sworn upon oath, deposes and says:

1. I am an attorney licensed to practice in the State of Idaho, and I am one of the attorneys for defendants Intermountain Anesthesia, P.A. and Marcus E. Murphy, M.D. in the above-referenced matter.

2. I make this Affidavit on my personal knowledge and belief.

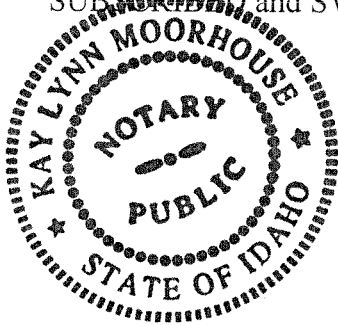
3. Attached hereto as Exhibit "A" is a true and correct copy of the U.S. Bankruptcy Court's docket related to Brian K. Hawk's bankruptcy petition. Pursuant to the docket in the bankruptcy matter, the matter was discharged on May 15, 2008.

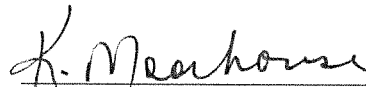
Further your affiant sayth naught.



Jeffrey R. Townsend

SUBSCRIBED and SWORN to before me this 29 day of June, 2010.





Notary Public for Idaho

Residing in Boise


My commission expires: 9/6/12

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 29th day of June, 2010, I caused to be served a true copy of the foregoing **AFFIDAVIT OF JEFFREY R. TOWNSEND IN SUPPORT OF DEFENDANTS' MOTION TO LIFT STAY**, by the method indicated below, and addressed to each of the following:

Lowell N. Hawkes
Ryan S. Lewis
Lowell N. Hawkes, Chartered
1322 East Center
Pocatello, ID 83201
Facsimile (208) 235-4200

- ☒ U.S. Mail, Postage Prepaid
- ☐ Hand Delivered
- ☐ Overnight Mail
- ☐ Telecopy



Kevin J. Scanlan

EXHIBIT A

CLOSED

**U.S. Bankruptcy Court
District of Idaho [LIVE] (Pocatello)
Bankruptcy Petition #: 06-40526-JDP**

Assigned to: Jim D Pappas
Chapter 7
Voluntary
Asset

Date filed: 10/09/2006
Date terminated: 05/15/2008
Date discharged: 04/23/2007

Debtor

Brian K Hawk
1185 Spruce St
Pocatello, ID 83201
[REDACTED] / [REDACTED]

represented by **Craig R Jorgensen**
POB 4904
Pocatello, ID 83205-4904
(208) 237-4100
Fax : (208)237-1706
Email:
biggunlaw@cableone.net

Joint Debtor

Mary Ellen Hawk
1185 Spruce St
Pocatello, ID 83201
[REDACTED] / [REDACTED]

represented by **Craig R Jorgensen**
(See above for address)

Trustee

R Sam Hopkins
POB 3014
Pocatello, ID 83206
208-478-7978

U.S. Trustee

US Trustee
Washington Group Central Plaza
720 Park Blvd, Ste 220
Boise, ID 83712
208-334-1300

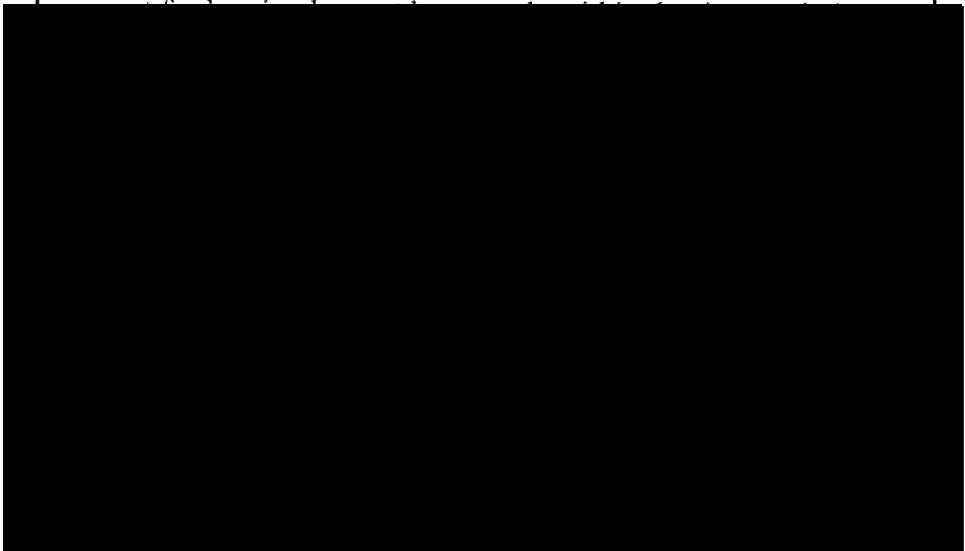
represented by **David Wayne Newman**
OFFICE OF THE US
TRUSTEE US DEPT
720 Park Blvd., Ste. 220
Boise, ID 83712
(208) 334-1300
Email:
david.w.newman@usdoj.gov

Filing Date	#	Docket Text
10/09/2006	<u>1</u>	Chapter 7 Voluntary Petition . Receipt Number 705650, Fee Amount \$299 Filed by Brian K. Hawk, Mary Ellen Hawk (Jorgensen, Craig) Modified on 10/11/2006 (Anderson, Clyde).
		Social Security Statement - SEALED Document Filed by Debtor

92

10/09/2006	<u>2</u>	Brian K. Hawk, Joint Debtor Mary Ellen Hawk. (Jorgensen, Craig)
10/09/2006	<u>3</u>	Disclosure of Compensation by Craig R. Jorgensen Filed by Debtor Brian K. Hawk, Joint Debtor Mary Ellen Hawk. (Jorgensen, Craig)
10/09/2006	<u>4</u>	Chapter 7 Statement of Current Monthly Income and Means Test Calculation - Form 22A Filed by Debtor Brian K. Hawk, Joint Debtor Mary Ellen Hawk. (Jorgensen, Craig)
10/09/2006	<u>5</u>	Exhibit D- Individual Debtor's Statement of Compliance with Credit Counseling Requirement Filed by Debtor Brian K. Hawk, Joint Debtor Mary Ellen Hawk. (Jorgensen, Craig)
10/10/2006	<u>6</u>	First Meeting of Creditors with 341(a) meeting to be held on 11/15/2006 at 09:00 AM at Pocatello - US Courthouse Pocatello. Objections for Discharge due by 01/16/2007. (admin,)
10/10/2006	<u>7</u>	Set Deficiency Deadlines Credit Counseling Date: 10/25/2006. Employee Income Record Due: 10/25/2006. (nl,)
10/10/2006		Financial Management Deadline: - 341 Meeting Date: 11/15/2006. Financial Management Certificate Due: 1/2/2007. (nl,)
10/10/2006	<u>8</u>	Income Tax Turnover Order (Ch. 7) (nl,)
10/10/2006	<u>9</u>	Certificate of Credit Counseling Filed by Debtor Brian K Hawk, Joint Debtor Mary Ellen Hawk (RE: related document(s) <u>7</u> Set Deficiency Deadlines). (Jorgensen, Craig)
10/10/2006	<u>10</u>	Employee Income Records (SEALED) Filed by Debtor Brian K Hawk, Joint Debtor Mary Ellen Hawk (RE: related document(s) <u>7</u> Set Deficiency Deadlines). (Attachments: # <u>1</u> Supplement Joint Debtor paystub) (Jorgensen, Craig)
10/12/2006	<u>12</u>	BNC Certificate of Mailing - Ch.7 Income Tax Turnover Order Service Date 10/12/2006. (Admin.)
10/12/2006	<u>13</u>	BNC Certificate of Mailing - Deficiency Notice Service Date 10/12/2006. (Admin.)
10/13/2006	<u>14</u>	BNC Certificate of Mailing - Meeting of Creditors Service Date 10/13/2006. (Admin.)

11/17/2006	<u>15</u>	Amended Schedule[s] B - Amount \$40781.16, C,. Filed by Debtor Brian K Hawk, Joint Debtor Mary Ellen Hawk. (Jorgensen, Craig)
11/17/2006	<u>16</u>	341(a) Meeting Minutes - Debtor Present. (Hopkins, R)
11/22/2006	<u>17</u>	Amended Chapter 7 Statement of Current Monthly Income and Means Test Calculation - Form 22A Filed by Debtor Brian K Hawk, Joint Debtor Mary Ellen Hawk. (Jorgensen, Craig)
11/24/2006	<u>19</u>	As required by 11 U.S.C. Sec. 704(b)(1)(A), the United States Trustee has reviewed the materials filed by the debtor(s). Having considered these materials in reference to the criteria set forth in 11 U.S.C. Sec. 707(b)(2)(A), and, pursuant to 11 U.S.C. Sec. 704(b)(2), the United States Trustee has determined that:(1) the debtor's(s') case should be presumed to be an abuse under section 707(b); and (2) the product of the debtor's current monthly income, multiplied by 12, is not less than the requirements specified in section 704(b)(2)(A) or (B). As required by 11 U.S.C. Sec. 704(b)(2) the United States Trustee shall, not later than 30 days after the date of this Statement's filing, either file a motion to dismiss or convert under section 707(b) or file a statement setting forth the reasons the United States Trustee does not consider such a motion to be appropriate. Debtor(s) may rebut the presumption of abuse only if special circumstances can be demonstrated as set forth in 11 U.S.C. Sec. 707(b)(2)(B). Filed by U.S. Trustee US Trustee. (Reynard, Janine)
11/24/2006	<u>18</u>	BNC Certificate of Mailing - Clerk's Notice of Presumed Abuse Service Date 11/24/2006. (Admin.)
11/30/2006	<u>20</u>	BNC Certificate of Mailing - Notice of Abuse Service Date 11/30/2006. (Admin.)
12/07/2006	<u>21</u>	Reply to (related document(s): <u>19</u> UST Statement of Presumed Abuse,,, filed by U.S. Trustee US Trustee) Filed by Debtor Brian K Hawk, Joint Debtor Mary Ellen Hawk (Attachments: # <u>1</u> Exhibit Child Support Report) (Jorgensen, Craig) Modified on 12/8/2006 to note the Notary electronic signature is missing (drh,).
12/08/2006	<u>22</u>	Objection to Debtor's Claim of Exemptions Filed by Trustee R Sam Hopkins. Objection to Claim of Exemption Due: 1/8/2007. (Hopkins, R)
12/22/2006	<u>23</u>	Motion to Dismiss Case For Presumption of Abuse under 707b Filed by U.S. Trustee US Trustee. (Attachments: # <u>1</u> Exhibit Debtors' Amended Means Test)(Reynard, Janine)

01/08/2007	<u>24</u>	Notice of Requirement to Complete Course in Financial Management - (RE: related document(s) Financial Management Certificate due) Financial Management Certificate due 2/7/2007. (cms,)
01/10/2007	<u>25</u>	BNC Certificate of Mailing - Notice of Requirement to Complete Course in Financial Management. Service Date 01/10/2007. (Admin.)
		<p>Order <i>Granting Objection to Debtor's Claim of Exemption</i></p> <p>The trustee in this case required that the Court not allow certain exemptions claimed by the debtor pursuant to 11 U.S.C. Section 522. Notice of the trustees request was sent to the debtor and a</p> 
01/18/2007	26	(Related Doc # <u>22</u>). Signed on 1/18/2007. (cms,)
01/19/2007	<u>27</u>	Financial Management Course Certificate Filed by Debtor Brian K Hawk, Joint Debtor Mary Ellen Hawk (RE: related document (s) <u>24</u> Notice of Requirement to Complete Course in Financial Management). (Attachments: # <u>1</u> Supplement Joint Debtor Certificate) (Jorgensen, Craig)
01/19/2007	<u>28</u>	Supplement to <i>Financial Mgmt Certificates</i> Filed by Debtor Brian K Hawk, Joint Debtor Mary Ellen Hawk (RE: related document (s) <u>27</u> Financial Management Course Certificate,). (Jorgensen, Craig)
		Withdrawal <i>U.S. Trustee's Motion to Dismiss</i> Filed by U.S. Trustee US Trustee (RE: related document(s) <u>23</u> Motion to Dismiss Case For Presumption of Abuse under 707b Filed by U.S. Trustee US Trustee. (Attachments: # <u>1</u> Exhibit Debtors' Amended Means Test)(Reynard, Janine) filed by U.S. Trustee US

04/20/2007	<u>29</u>	Trustee). (Reynard, Janine)
04/23/2007	<u>30</u>	Order Discharging Debtor Signed on 4/23/2007 (RE: related document(s) 6 Meeting (Chapter 7)). (cms,)
04/25/2007	<u>31</u>	BNC Certificate of Mailing - Order of Discharge. Service Date 04/25/2007. (Admin.)
05/07/2007	<u>32</u>	Trustee's Notice of Assets & Notice to Creditors Filed by Trustee R Sam Hopkins. Claims due by 8/6/2007.Proofs of Claim due by 8/6/2007. (Hopkins, R)
05/09/2007	<u>33</u>	BNC Certificate of Mailing - Notice of Assets Service Date 05/09/2007. (Admin.)
12/20/2007	<u>34</u>	Trustee's Final Report and Accounting. (Hopkins, R)
12/20/2007	<u>35</u>	Chapter 7 Trustees Notice of Final Accounting and Right to Object Filed by Trustee R Sam Hopkins. Objections to Trustees Report due 1/10/2008. (Hopkins, R)
12/20/2007	36	<p>Prior to the filing of the Final Accounting in this case, the Trustee submitted it to the U.S. Trustee. The U.S. Trustee has reviewed and approved the Chapter 7 Final Accounting in accordance with the January 1999, Amended Memorandum of Understanding between the Executive Office of the United States Trustee and the Administrative Office of the United States Courts.</p> <p style="text-align: center;">Ilene Lashinsky, United States Trustee</p> <p style="text-align: center;"><i>This is a TEXT ENTRY - No document is attached.</i></p> <p>. (McClendon, Gary)</p>
12/22/2007	<u>37</u>	BNC Certificate of Mailing - Notice of Final Accounting Service Date 12/22/2007. (Admin.)
01/14/2008	<u>38</u>	Order of Distribution for R Sam Hopkins, Trustee Chapter 7, Fees awarded: \$416.40, Expenses awarded: \$45.35; Awarded on 1/14/2008 Signed on 1/14/2008. (cms,)
01/29/2008	<u>39</u>	Turnover of Funds of Intermountain Gas Co in the amount of \$ 1.63 Filed by Trustee R Sam Hopkins . (cms,)
04/11/2008	<u>40</u>	Trustee's Supplemental Final Report. Rule 5009; 5/11/2008. (Hopkins, R)

04/17/2008	41	<p>Prior to the filing of the Supplemental Final Accounting, the Trustee submitted it to the U.S. Trustee. The U.S. Trustee has reviewed and approved it in accordance with the January 1999, Amended Memorandum of Understanding between the Executive Office of the United States Trustee and the Administrative Office of the United States Courts. The U.S. Trustee has no objection to either the Trustee's certification that the estate has been fully administered or the Trustee's request that the case be closed.</p> <p>Robert D. Miller Jr., United States Trustee</p> <p><i>This is a TEXT ENTRY - No document is attached.</i></p> <p>. (McClendon, Gary)</p>
05/15/2008	<u>42</u>	Order Approving Trustee's Supplemental Final Report, Discharging Trustee and Closing the Estate Signed on 5/15/2008. (drh,)
05/17/2008	<u>43</u>	BNC Certificate of Mailing - Order Approving Trustee's Supplemental Final Report, Closing Case Service Date 05/17/2008. (Admin.)

PACER Service Center			
Transaction Receipt			
06/04/2010 14:13:57			
PACER Login:	hff0086	Client Code:	
Description:	Docket Report	Search Criteria:	06-40526-JDP Fil or Ent: filed Doc From: 0 Doc To: 99999999 Term: included Format: html
Billable Pages:	3	Cost:	0.24

RICHARD E. HALL
ISB #1253; reh@hallfarley.com
KEVIN J. SCANLAN
ISB #5521; kjs@hallfarley.com
HALL, FARLEY, OBERRECHT & BLANTON, P.A.
702 West Idaho, Suite 700
Post Office Box 1271
Boise, Idaho 83701
Telephone: (208) 395-8500
Facsimile: (208) 395-8585
V:\Closed Files\3\3-235.8\Stay - Memo.doc

2010 JUL -1 11:02
HALL, FARLEY, OBERRECHT & BLANTON, P.A.
COURT REPORTERS & VIDEO
1000 N. GARDEN ST.
BOISE, IDAHO 83701

Attorneys for Defendants

IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNEVILLE

THOMAS L. STRONG, and BRIAN K.
HAWK,

Plaintiffs,

vs.

INTERMOUNTAIN ANESTHESIA, P.A. and
MARCUS E. MURPHY, M.D.,

Defendants.

Case No. CV 06-7149

**DEFENDANTS' MEMORANDUM IN
SUPPORT OF MOTION TO LIFT
STAY**

COME NOW defendants Intermountain Anesthesia, P.A. and Marcus E. Murphy, M.D. ("Defendants") by and through their counsel of record, Hall, Farley, Oberrecht & Blanton, P.A., and hereby respectfully submit this Memorandum in Support of their Motion to Lift Stay.

I. INTRODUCTION.

On March 7, 2007, this Court entered an order staying further proceedings pending resolution of plaintiff Brian K. Hawk's bankruptcy. On May 15, 2008, the Bankruptcy Court discharged Hawk's bankruptcy case and closed the file. (Affidavit of Jeffrey R. Townsend in Support of Motion to Lift Stay, "Townsend Aff'd. ¶ 3").

ORIGINAL⁹⁸

II. ARGUMENT.

On or about March 7, 2007, Plaintiff's counsel submitted an affidavit advising this court that Plaintiff Brian K. Hawk had filed a petition for bankruptcy, and arguing that this matter was subject to the automatic stay provisions of Section 362 of the U.S. Bankruptcy Code. On March 7, 2007, this Court stayed this matter. An automatic stay under Section 362A continues only until the time a discharge is granted. (11 U.S.C. Section 362(c)(2)(c).) On May 15, 2008, the Bankruptcy court discharged Hawk's bankruptcy case. (Townsend Aff'd. at ¶ 3.) Defendants request the stay in this matter be lifted because the bankruptcy matter has been discharged.

III. CONCLUSION.

Plaintiff Brian K. Hawk's bankruptcy case was discharged, and the automatic stay discontinued on May 15, 2008. Therefore, as the automatic stay was discontinued as of May 15, 2008, Defendants respectfully request that this Court lift the Stay it entered on March 7, 2007.

DATED this 29th day of June, 2010.

HALL, FARLEY, OBERRECHT &
BLANTON, P.A.

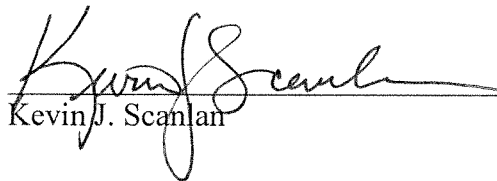
By: Kevin J. Scanlan
Richard E. Hall. -- Of the Firm
Kevin J. Scanlan -- Of the Firm
Attorneys for Defendants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 29th day of June, 2010, I caused to be served a true copy of the foregoing **DEFENDANTS' MEMORANDUM IN SUPPORT OF MOTION TO LIFT STAY**, by the method indicated below, and addressed to each of the following:

Lowell N. Hawkes
Ryan S. Lewis
Lowell N. Hawkes, Chartered
1322 East Center
Pocatello, ID 83201
Facsimile (208) 235-4200

- ☒ U.S. Mail, Postage Prepaid
☐ Hand Delivered
☐ Overnight Mail
☐ Telecopy



Kevin J. Scanlan

RICHARD E. HALL
ISB #1253; reh@hallfarley.com
KEVIN J. SCANLAN
ISB #5521; kjs@hallfarley.com
HALL, FARLEY, OBERRECHT & BLANTON, P.A.
702 West Idaho, Suite 700
Post Office Box 1271
Boise, Idaho 83701
Telephone: (208) 395-8500
Facsimile: (208) 395-8585
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2010 JUL -1 11:01

CLERK OF DISTRICT COURT
JUDICIAL DISTRICT NO. 1
BOISE, IDAHO

Attorneys for Defendants

IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNEVILLE

THOMAS L. STRONG, and BRIAN K.
HAWK,

Plaintiffs,

vs.

INTERMOUNTAIN ANESTHESIA, P.A. and
MARCUS E. MURPHY, M.D.,

Defendants.

Case No. CV 06-7149


**MOTION TO DISMISS FOR
FAILURE TO PROSECUTE, OR
ALTERNATIVELY, MOTION FOR
SUMMARY JUDGMENT**

COME NOW defendants Intermountain Anesthesia, P.A. and Marcus E. Murphy, M.D. ("defendants") by and through their counsel of record, Hall, Farley, Oberrecht & Blanton, P.A., and hereby respectfully moves the Court to Dismiss for Failure to Prosecute, or Alternatively, Motion for Summary Judgment.

In support of this motion, defendants submit the accompanying memorandum and affidavit filed contemporaneously herewith.

DATED this 29th day of June, 2010.

HALL, FARLEY, OBERRECHT &
BLANTON, P.A.

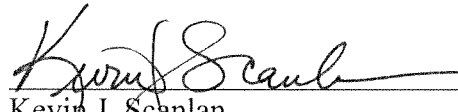
By: 
Richard E. Hall -- Of the Firm
Kevin J. Scanlan -- Of the Firm
Attorneys for Defendants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 29th day of June, 2010, I caused to be served a true copy of the foregoing **MOTION TO DISMISS FOR FAILURE TO PROSECUTE, OR ALTERNATIVELY, MOTION FOR SUMMARY JUDGMENT**, by the method indicated below, and addressed to each of the following:

Lowell N. Hawkes
Ryan S. Lewis
Lowell N. Hawkes, Chartered
1322 East Center
Pocatello, ID 83201
Facsimile (208) 235-4200

- ☒ U.S. Mail, Postage Prepaid
☐ Hand Delivered
☐ Overnight Mail
☐ Telecopy



Kevin J. Scanlan

RICHARD E. HALL
ISB #1253; reh@hallfarley.com
KEVIN J. SCANLAN
ISB #5521; kjs@hallfarley.com
HALL, FARLEY, OBERRECHT & BLANTON, P.A.
702 West Idaho, Suite 700
Post Office Box 1271
Boise, Idaho 83701
Telephone: (208) 395-8500
Facsimile: (208) 395-8585
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2010 JUL -1 11:01
CLERK OF DISTRICT COURT
JUDICIAL DISTRICT
BOISE, IDAHO

Attorneys for Defendants

IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNEVILLE

THOMAS L. STRONG, and BRIAN K.
HAWK,

Plaintiffs,

vs.

INTERMOUNTAIN ANESTHESIA, P.A. and
MARCUS E. MURPHY, M.D.,

Defendants.

Case No. CV 06-7149

**AFFIDAVIT OF KEVIN J. SCANLAN
IN SUPPORT OF DEFENDANTS'
MOTION TO DISMISS FOR
FAILURE TO PROSECUTE, OR
ALTERNATIVELY, MOTION FOR
SUMMARY JUDGMENT**

STATE OF IDAHO)
) ss.
County of Ada)

I, Kevin J. Scanlan, being first duly sworn upon oath, deposes and says:

1. I am an attorney licensed to practice in the State of Idaho, and am an attorney of record for defendants Intermountain Anesthesia, P.A. and Marcus E. Murphy, M.D. in the above-referenced matter.

2. I make this Affidavit on my personal knowledge and belief.

3. Attached hereto as Exhibit "A" is a true and correct copy of the Idaho State Board

of Medicine's notice re: Prelitigation Screening Panel Request regarding plaintiff Tom L. Strong's request for a Prelitigation Hearing Panel, which notes that such claim was received by the Idaho State Board of Medicine on May 24, 2006.

4. Attached hereto as Exhibit "B" is a true and correct copy of the Idaho State Board of Medicine's notice re: Prelitigation Screening Panel Request regarding plaintiff Brian Hawk's request for a Prelitigation Hearing Panel, which notes that such claim was received by the Idaho State Board of Medicine on May 24, 2006.

5. I represented defendant Marcus E. Murphy, M.D. in the prelitigation screening proceedings before the Idaho State Board of Medicine regarding this matter and am aware that the prelitigation screening panel hearings in this matter were conducted on November 10, 2006. I have also received and reviewed copies of each of the panel's Advisory Opinions, which indicate that each was received at the Idaho State Board of Medicine on November 17, 2006.

6. Attached hereto as Exhibit "C" is a true and correct copy of the Idaho State Board of Medicine's notice of service regarding the panel's report and recommendation in the matter of Tom L. Strong v. Marcus Edward Murphy, M.D., dated November 20, 2006.

7. Attached hereto as Exhibit "D" is a true and correct copy of the Idaho State Board of Medicine's notice of service regarding the panel's report and recommendation in the matter of Brian Hawk v. Marcus Edward Murphy, M.D., dated November 20, 2006.

8. Attached hereto as Exhibit "E" is a true and correct copy of the U.S. Bankruptcy Court's docket related to plaintiff Brian K. Hawk's bankruptcy proceeding, case number 06-40526.

9. Attached hereto as Exhibit "F" is a true and correct copy of the plaintiff Brian K. Hawk's bankruptcy petition for case number 06-40526, including property schedules.

10. Attached hereto as Exhibit "G" is a true and correct copy of the plaintiff Brian K. Hawk's amended property schedule for bankruptcy case number 06-40526.


11. Attached hereto as Exhibit "H" is a true and correct copy of the Bankruptcy Trustee's Supplemental Final Accounting, requesting that Hawk's bankruptcy matter be closed.

12. Attached hereto as Exhibit "I" is a true and correct copy of a letter I received from Lowell Hawkes, dated January 23, 2007.

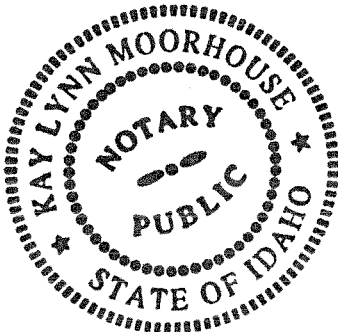
13. Mary Waid and Christian Schmalz were the certified nurse anesthetists who administered/monitored anesthesia given in this matter, and they are no longer employed with Intermountain Anesthesia. Mary Waid has retired and defendants are unaware of her current residence, and Christian Schmalz's last known residence was in Washington state.

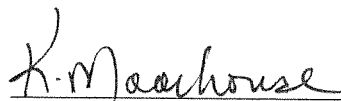
14. On or about September 22, 2009, I contacted plaintiffs' counsel regarding the status of the matter and plaintiffs' intentions in pursuing this matter. Plaintiffs' counsel stated that he had not spoken with his clients for a while, and needed to discuss the matter with them. As of the date of filing this affidavit to my knowledge, plaintiffs have not taken any steps to advance this matter.

DATED this 29 day of June, 2010.


Kevin J. Scanlan

SUBSCRIBED and SWORN to before me this 29 day of June, 2010.



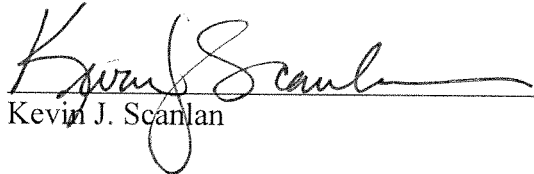

Notary Public for Idaho
Residing in Boise
My commission expires: 9/6/12

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 29th day of June, 2010, I caused to be served a true copy of the foregoing **AFFIDAVIT OF KEVIN J. SCANLAN IN SUPPORT OF DEFENDANTS' MOTION TO DISMISS FOR FAILURE TO PROSECUTE, OR ALTERNATIVELY, MOTION FOR SUMMARY JUDGMENT**, by the method indicated below, and addressed to each of the following:

Lowell N. Hawkes
Ryan S. Lewis
Lowell N. Hawkes, Chartered
1322 East Center
Pocatello, ID 83201
Facsimile (208) 235-4200

- ☒ U.S. Mail, Postage Prepaid
- ☐ Hand Delivered
- ☐ Overnight Mail
- ☐ Telecopy



Kevin J. Scanlan

EXHIBIT A



Idaho State Board of Medicine

PO Box 83720 Boise, ID 83720-0058

CONFIDENTIAL

June 2, 2006

36-06

Strong v. Murphy, MD

TO: Concerned Persons, per attached list

FROM: Gloria Pedersen, Administrative Assistant
for Nancy Kerr, Executive Director

RE: PRELITIGATION SCREENING REQUEST

1. Request for hearing in the above matter was received May 24, 2006.
2. Brent O. Roche, Attorney at Law, has accepted appointment as panel chairman in the above matter.
3. All parties will be notified when hearing is scheduled.
4. To facilitate scheduling, please notify this office and the panel chairman of the names of defense counsel promptly. Defendants are asked to notify insurers. Claimant and defense attorneys are requested to furnish panel Chairman Roche, with dates during the next four months when they would be **unavailable** for a hearing. Please mail calendars to the chairman at the following address, within the next 21 days:
PO Box 1391, Pocatello, Idaho 83204-1391, telephone (208) 232-6101, fax (208) 232-6109.
5. For non-members of the Idaho State Bar to appear before agency proceedings in this state, it is necessary to have an active member of the Idaho Bar associated and present. Claimant may appear pro se.
6. All parties will be notified when hearing is scheduled.

GP/jw
Attachments

37-06 Strong v Murphy, MD

On June 2, 2006, a copy of the claim in the above matter was mailed by regular U.S. Mail and marked **CONFIDENTIAL** to all interested parties as follow:

Lowell N Hawkes
Attorney at Law
1322 East Center
Pocatello ID 83201

Marcus Edward Murphy MD
7654 S Cliffside
Idaho Falls ID 83406

Brent O Roche
Attorney at Law
PO Box 1391
Pocatello ID 83204-1391


Nancy Kerr, Executive Director
Idaho State Board of Medicine

NK/gp

EXHIBIT B



Idaho State Board of Medicine

PO Box 83720 Boise, ID 83720-0058

CONFIDENTIAL

June 6, 2006

38-06

Hawk v. Murphy, MD

TO: Concerned Persons, per attached list

FROM: Gloria Pedersen, Administrative Assistant
for Nancy Kerr, Executive Director

RE: PRELITIGATION SCREENING REQUEST

1. Request for hearing in the above matter was received May 24, 2006. Enclosed is a copy of the claim,
2. Kelly K. Kumm, Attorney at Law, has accepted appointment as panel chairman in the above matter.
3. All parties will be notified when hearing is scheduled.
4. To facilitate scheduling, please notify this office and the panel chairman of the names of **defense counsel** promptly. Defendants are asked to notify insurers. Claimant and defense attorneys are requested to furnish panel Chairman Kumm, with dates during the next four months when they would be **unavailable** for a hearing. Please mail calendars to the chairman at the following address, within the next 21 days: **1305 E Center, Pocatello ID 83201, telephone (208) 232-4051, fax (208) 232-2880.**
5. For non-members of the Idaho State Bar to appear before agency proceedings in this state, it is necessary to have an active member of the Idaho Bar associated and present. Claimant may appear pro se.
6. All parties will be notified when hearing is scheduled.

GP/jw

Attachments

5


38-06 Hawk v Murphy, MD

On June 6, 2006, a copy of the claim in the above matter was mailed by regular U.S. Mail and marked **CONFIDENTIAL** to all interested parties as follow:

Lowell N Hawkes
Attorney at Law
1322 East Center
Pocatello ID 83201

Marcus Edward Murphy MD
7654 S Cliffside
Idaho Falls ID 83406

Kelly K Kumm
Attorney at Law
1305 E Center
Pocatello ID 83201


Nancy Kerr, Executive Director
Idaho State Board of Medicine

NK/gp

EXHIBIT C

37-06 Strong v. Murphy, MD

On November 20, 2006, a copy of the attached and foregoing executed Report and Recommendation in the above matter was mailed by regular U.S. Mail and marked **CONFIDENTIAL** to all interested parties as follow:

Lowell N Hawkes
Attorney at Law
1322 East Center
Pocatello ID 83201

Marcus Edward Murphy MD
7654 S Cliffside
Idaho Falls ID 83406

--- Richard E Hall
Attorney at Law
PO Box 1271
Boise ID 83701

Brent O Roche
Attorney at Law
PO Box 1391
Pocatello ID 83204-1391



Nancy Kerr, Executive Director
Idaho State Board of Medicine

NK/gp

EXHIBIT D

38-06 Hawk v. Murphy, MD

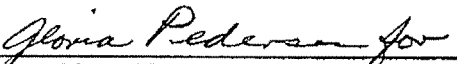
On November 20, 2006, a copy of the attached and foregoing executed Report and Recommendation in the above matter was mailed by regular U.S. Mail and marked **CONFIDENTIAL** to all interested parties as follow:

Lowell N Hawkes
Attorney at Law
1322 East Center
Pocatello ID 83201

Marcus Edward Murphy MD
7654 S Cliffside
Idaho Falls ID 83406

--- Richard E Hall
Attorney at Law
PO Box 1271
Boise ID 83701

Brent O Roche
Attorney at Law
PO Box 1391
Pocatello ID 83204-1391



Nancy Kerr, Executive Director
Idaho State Board of Medicine

NK/gp

EXHIBIT E

CLOSED

**U.S. Bankruptcy Court
District of Idaho [LIVE] (Pocatello)
Bankruptcy Petition #: 06-40526-JDP**

Assigned to: Jim D Pappas
Chapter 7
Voluntary
Asset

Date filed: 10/09/2006
Date terminated: 05/15/2008
Date discharged: 04/23/2007

Debtor

Brian K Hawk
1185 Spruce St
Pocatello, ID 83201
[REDACTED] / [REDACTED]

represented by **Craig R Jorgensen**
POB 4904
Pocatello, ID 83205-4904
(208) 237-4100
Fax : (208)237-1706
Email:
biggunlaw@cableone.net

Joint Debtor

Mary Ellen Hawk
1185 Spruce St
Pocatello, ID 83201
[REDACTED] / [REDACTED]

represented by **Craig R Jorgensen**
(See above for address)

Trustee

R Sam Hopkins
POB 3014
Pocatello, ID 83206
208-478-7978

U.S. Trustee

US Trustee
Washington Group Central Plaza
720 Park Blvd, Ste 220
Boise, ID 83712
208-334-1300


represented by **David Wayne Newman**
OFFICE OF THE US
TRUSTEE US DEPT
720 Park Blvd., Ste. 220
Boise, ID 83712
(208) 334-1300
Email:
david.w.newman@usdoj.gov

Filing Date	#	Docket Text
10/09/2006	<u>1</u>	Chapter 7 Voluntary Petition . Receipt Number 705650, Fee Amount \$299 Filed by Brian K. Hawk, Mary Ellen Hawk (Jorgensen, Craig) Modified on 10/11/2006 (Anderson, Clyde).
		Social Security Statement - SEALED Document Filed by Debtor

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10/09/2006	<u>2</u>	Brian K. Hawk, Joint Debtor Mary Ellen Hawk. (Jorgensen, Craig)
10/09/2006	<u>3</u>	Disclosure of Compensation by Craig R. Jorgensen Filed by Debtor Brian K. Hawk, Joint Debtor Mary Ellen Hawk. (Jorgensen, Craig)
10/09/2006	<u>4</u>	Chapter 7 Statement of Current Monthly Income and Means Test Calculation - Form 22A Filed by Debtor Brian K. Hawk, Joint Debtor Mary Ellen Hawk. (Jorgensen, Craig)
10/09/2006	<u>5</u>	Exhibit D- Individual Debtor's Statement of Compliance with Credit Counseling Requirement Filed by Debtor Brian K. Hawk, Joint Debtor Mary Ellen Hawk. (Jorgensen, Craig)
10/10/2006	<u>6</u>	First Meeting of Creditors with 341(a) meeting to be held on 11/15/2006 at 09:00 AM at Pocatello - US Courthouse Pocatello. Objections for Discharge due by 01/16/2007. (admin,)
10/10/2006	<u>7</u>	Set Deficiency Deadlines Credit Counseling Date: 10/25/2006. Employee Income Record Due: 10/25/2006. (nl,)
10/10/2006		Financial Management Deadline: - 341 Meeting Date: 11/15/2006. Financial Management Certificate Due: 1/2/2007. (nl,)
10/10/2006	<u>8</u>	Income Tax Turnover Order (Ch. 7) (nl,)
10/10/2006	<u>9</u>	Certificate of Credit Counseling Filed by Debtor Brian K Hawk, Joint Debtor Mary Ellen Hawk (RE: related document(s) <u>7</u> Set Deficiency Deadlines). (Jorgensen, Craig)
10/10/2006	<u>10</u>	Employee Income Records (SEALED) Filed by Debtor Brian K Hawk, Joint Debtor Mary Ellen Hawk (RE: related document(s) <u>7</u> Set Deficiency Deadlines). (Attachments: # <u>1</u> Supplement Joint Debtor paystub) (Jorgensen, Craig)
10/12/2006	<u>12</u>	BNC Certificate of Mailing - Ch.7 Income Tax Turnover Order Service Date 10/12/2006. (Admin.)
10/12/2006	<u>13</u>	BNC Certificate of Mailing - Deficiency Notice Service Date 10/12/2006. (Admin.)
10/13/2006	<u>14</u>	BNC Certificate of Mailing - Meeting of Creditors Service Date 10/13/2006. (Admin.)

11/17/2006	<u>15</u>	Amended Schedule[s] B - Amount \$40781.16, C,. Filed by Debtor Brian K Hawk, Joint Debtor Mary Ellen Hawk. (Jorgensen, Craig)
11/17/2006	<u>16</u>	341(a) Meeting Minutes - Debtor Present. (Hopkins, R)
11/22/2006	<u>17</u>	Amended Chapter 7 Statement of Current Monthly Income and Means Test Calculation - Form 22A Filed by Debtor Brian K Hawk, Joint Debtor Mary Ellen Hawk. (Jorgensen, Craig)
11/24/2006	<u>19</u>	As required by 11 U.S.C. Sec. 704(b)(1)(A), the United States Trustee has reviewed the materials filed by the debtor(s). Having considered these materials in reference to the criteria set forth in 11 U.S.C. Sec. 707(b)(2)(A), and, pursuant to 11 U.S.C. Sec. 704(b)(2), the United States Trustee has determined that:(1) the debtor's(s') case should be presumed to be an abuse under section 707(b); and (2) the product of the debtor's current monthly income, multiplied by 12, is not less than the requirements specified in section 704(b)(2)(A) or (B). As required by 11 U.S.C. Sec. 704(b)(2) the United States Trustee shall, not later than 30 days after the date of this Statement's filing, either file a motion to dismiss or convert under section 707(b) or file a statement setting forth the reasons the United States Trustee does not consider such a motion to be appropriate. Debtor(s) may rebut the presumption of abuse only if special circumstances can be demonstrated as set forth in 11 U.S.C. Sec. 707(b)(2)(B). Filed by U.S. Trustee US Trustee. (Reynard, Janine)
11/24/2006	<u>18</u>	BNC Certificate of Mailing - Clerk's Notice of Presumed Abuse Service Date 11/24/2006. (Admin.)
11/30/2006	<u>20</u>	BNC Certificate of Mailing - Notice of Abuse Service Date 11/30/2006. (Admin.)
12/07/2006	<u>21</u>	Reply to (related document(s): <u>19</u> UST Statement of Presumed Abuse,,, filed by U.S. Trustee US Trustee) Filed by Debtor Brian K Hawk, Joint Debtor Mary Ellen Hawk (Attachments: # <u>1</u> Exhibit Child Support Report) (Jorgensen, Craig) Modified on 12/8/2006 to note the Notary electronic signature is missing (drh,).
12/08/2006	<u>22</u>	Objection to Debtor's Claim of Exemptions Filed by Trustee R Sam Hopkins. Objection to Claim of Exemption Due: 1/8/2007. (Hopkins, R)
12/22/2006	<u>23</u>	Motion to Dismiss Case For Presumption of Abuse under 707b Filed by U.S. Trustee US Trustee. (Attachments: # <u>1</u> Exhibit Debtors' Amended Means Test)(Reynard, Janine)

01/08/2007	<u>24</u>	Notice of Requirement to Complete Course in Financial Management - (RE: related document(s) Financial Management Certificate due) Financial Management Certificate due 2/7/2007. (cms,)
01/10/2007	<u>25</u>	BNC Certificate of Mailing - Notice of Requirement to Complete Course in Financial Management. Service Date 01/10/2007. (Admin.)
		<p>Order <i>Granting</i> Objection to Debtor's Claim of Exemption</p> <p>The trustee in this case required that the Court not allow certain exemptions claimed by the debtor pursuant to 11 U.S.C. Section 522. Notice of the trustees request was sent to the debtor and a request for hearing has not been made within the time period allowed in that notice.</p>  <p><i>This Notice of Electronic Filing is the Official ORDER for this entry. No document is attached.</i></p> <p>This document served on debtor at the address of record.</p>
01/18/2007	26	(Related Doc # <u>22</u>). Signed on 1/18/2007. (cms,)
01/19/2007	<u>27</u>	Financial Management Course Certificate Filed by Debtor Brian K Hawk, Joint Debtor Mary Ellen Hawk (RE: related document (s) <u>24</u> Notice of Requirement to Complete Course in Financial Management). (Attachments: # <u>1</u> Supplement Joint Debtor Certificate) (Jorgensen, Craig)
01/19/2007	<u>28</u>	Supplement to <i>Financial Mgmt Certificates</i> Filed by Debtor Brian K Hawk, Joint Debtor Mary Ellen Hawk (RE: related document (s) <u>27</u> Financial Management Course Certificate,). (Jorgensen, Craig)
		Withdrawal <i>U.S. Trustee's Motion to Dismiss</i> Filed by U.S. Trustee US Trustee (RE: related document(s) <u>23</u> Motion to Dismiss Case For Presumption of Abuse under 707b Filed by U.S. Trustee US Trustee. (Attachments: # <u>1</u> Exhibit Debtors' Amended Means Test)(Reynard, Janine) filed by U.S. Trustee US

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04/20/2007	<u>29</u>	Trustee). (Reynard, Janine)
04/23/2007	<u>30</u>	Order Discharging Debtor Signed on 4/23/2007 (RE: related document(s) 6 Meeting (Chapter 7)). (cms,)
04/25/2007	<u>31</u>	BNC Certificate of Mailing - Order of Discharge. Service Date 04/25/2007. (Admin.)
05/07/2007	<u>32</u>	Trustee's Notice of Assets & Notice to Creditors Filed by Trustee R Sam Hopkins. Claims due by 8/6/2007. Proofs of Claim due by 8/6/2007. (Hopkins, R)
05/09/2007	<u>33</u>	BNC Certificate of Mailing - Notice of Assets Service Date 05/09/2007. (Admin.)
12/20/2007	<u>34</u>	Trustee's Final Report and Accounting. (Hopkins, R)
12/20/2007	<u>35</u>	Chapter 7 Trustees Notice of Final Accounting and Right to Object Filed by Trustee R Sam Hopkins. Objections to Trustees Report due 1/10/2008. (Hopkins, R)
12/20/2007	36	<p>Prior to the filing of the Final Accounting in this case, the Trustee submitted it to the U.S. Trustee. The U.S. Trustee has reviewed and approved the Chapter 7 Final Accounting in accordance with the January 1999, Amended Memorandum of Understanding between the Executive Office of the United States Trustee and the Administrative Office of the United States Courts.</p> <p>Ilene Lashinsky, United States Trustee</p> <p><i>This is a TEXT ENTRY - No document is attached.</i></p> <p>. (McClendon, Gary)</p>
12/22/2007	<u>37</u>	BNC Certificate of Mailing - Notice of Final Accounting Service Date 12/22/2007. (Admin.)
01/14/2008	<u>38</u>	Order of Distribution for R Sam Hopkins, Trustee Chapter 7, Fees awarded: \$416.40, Expenses awarded: \$45.35; Awarded on 1/14/2008 Signed on 1/14/2008. (cms,)
01/29/2008	<u>39</u>	Turnover of Funds of Intermountain Gas Co in the amount of \$ 1.63 Filed by Trustee R Sam Hopkins . (cms,)
04/11/2008	<u>40</u>	Trustee's Supplemental Final Report. Rule 5009: 5/11/2008. (Hopkins, R)

04/17/2008	41	<p>Prior to the filing of the Supplemental Final Accounting, the Trustee submitted it to the U.S. Trustee. The U.S. Trustee has reviewed and approved it in accordance with the January 1999, Amended Memorandum of Understanding between the Executive Office of the United States Trustee and the Administrative Office of the United States Courts. The U.S. Trustee has no objection to either the Trustee's certification that the estate has been fully administered or the Trustee's request that the case be closed.</p> <p>Robert D. Miller Jr., United States Trustee</p> <p><i>This is a TEXT ENTRY - No document is attached.</i></p> <p>. (McClendon, Gary)</p>
05/15/2008	<u>42</u>	Order Approving Trustee's Supplemental Final Report, Discharging Trustee and Closing the Estate Signed on 5/15/2008. (drh,)
05/17/2008	<u>43</u>	BNC Certificate of Mailing - Order Approving Trustee's Supplemental Final Report, Closing Case Service Date 05/17/2008. (Admin.)

PACER Service Center			
Transaction Receipt			
06/04/2010 14:13:57			
PACER Login:	hf0086	Client Code:	
Description:	Docket Report	Search Criteria:	06-40526-JDP Fil or Ent: filed Doc From: 0 Doc To: 99999999 Term: included Format: html
Billable Pages:	3	Cost:	0.24

EXHIBIT F

Official Form 1 (10/06)

**United States Bankruptcy Court
District of Idaho**

Voluntary Petition

Name of Debtor (if individual, enter Last, First, Middle): Hawk, Brian K.	Name of Joint Debtor (Spouse) (Last, First, Middle): Hawk, Mary Ellen
All Other Names used by the Debtor in the last 8 years (include married, maiden, and trade names):	All Other Names used by the Joint Debtor in the last 8 years (include married, maiden, and trade names):
Last four digits of [redacted] Sec./Complete EIN or other Tax ID No. (if more than one, state all)	Last four digits of [redacted] Sec./Complete EIN or other Tax ID No. (if more than one, state all)
Street Address of Debtor (No. and Street, City, and State): 1185 Spruce Street Pocatello, ID <div style="text-align: right;">ZIP Code 83201</div>	Street Address of Joint Debtor (No. and Street, City, and State): 1185 Spruce Street Pocatello, ID <div style="text-align: right;">ZIP Code 83201</div>
County of Residence or of the Principal Place of Business: Bannock	County of Residence or of the Principal Place of Business: Bannock
Mailing Address of Debtor (if different from street address): <div style="text-align: right;">ZIP Code</div>	Mailing Address of Joint Debtor (if different from street address): <div style="text-align: right;">ZIP Code</div>

Location of Principal Assets of Business Debtor
(if different from street address above):

Type of Debtor (Form of Organization) (Check one box) <input checked="" type="checkbox"/> Individual (includes Joint Debtors) <i>See Exhibit D on page 2 of this form.</i> <input type="checkbox"/> Corporation (includes LLC and LLP) <input type="checkbox"/> Partnership <input type="checkbox"/> Other (If debtor is not one of the above entities, check this box and state type of entity below.)	Nature of Business (Check one box) <input type="checkbox"/> Health Care Business <input type="checkbox"/> Single Asset Real Estate as defined in 11 U.S.C. § 101 (51B) <input type="checkbox"/> Railroad <input type="checkbox"/> Stockbroker <input type="checkbox"/> Commodity Broker <input type="checkbox"/> Clearing Bank <input type="checkbox"/> Other Tax-Exempt Entity (Check box, if applicable) <input type="checkbox"/> Debtor is a tax-exempt organization under Title 26 of the United States Code (the Internal Revenue Code).	Chapter of Bankruptcy Code Under Which the Petition is Filed (Check one box) <input checked="" type="checkbox"/> Chapter 7 <input type="checkbox"/> Chapter 9 <input type="checkbox"/> Chapter 11 <input type="checkbox"/> Chapter 12 <input type="checkbox"/> Chapter 13 <input type="checkbox"/> Chapter 15 Petition for Recognition of a Foreign Main Proceeding <input type="checkbox"/> Chapter 15 Petition for Recognition of a Foreign Nonmain Proceeding Nature of Debts (Check one box) <input checked="" type="checkbox"/> Debts are primarily consumer debts, defined in 11 U.S.C. § 101(8) as "incurred by an individual primarily for a personal, family, or household purpose." <input type="checkbox"/> Debts are primarily business debts.
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Filing Fee (Check one box) <input checked="" type="checkbox"/> Full Filing Fee attached <input type="checkbox"/> Filing Fee to be paid in installments (applicable to individuals only). Must attach signed application for the court's consideration certifying that the debtor is unable to pay fee except in installments. Rule 1006(b). See Official Form 3A. <input type="checkbox"/> Filing Fee waiver requested (applicable to chapter 7 individuals only). Must attach signed application for the court's consideration. See Official Form 3B.	Chapter 11 Debtors Check one box: <input type="checkbox"/> Debtor is a small business debtor as defined in 11 U.S.C. § 101(51D). <input type="checkbox"/> Debtor is not a small business debtor as defined in 11 U.S.C. § 101(51D). Check if: <input type="checkbox"/> Debtor's aggregate noncontingent liquidated debts (excluding debts owed to insiders or affiliates) are less than \$2 million. Check all applicable boxes: <input type="checkbox"/> A plan is being filed with this petition. <input type="checkbox"/> Acceptances of the plan were solicited prepetition from one or more classes of creditors, in accordance with 11 U.S.C. § 1126(b).
---	---

Statistical/Administrative Information <input type="checkbox"/> Debtor estimates that funds will be available for distribution to unsecured creditors. <input checked="" type="checkbox"/> Debtor estimates that, after any exempt property is excluded and administrative expenses paid, there will be no funds available for distribution to unsecured creditors.																													
Estimated Number of Creditors <table style="width:100%; text-align: center;"> <tr> <td>1-49</td> <td>50-99</td> <td>100-199</td> <td>200-999</td> <td>1000-5,000</td> <td>5001-10,000</td> <td>10,001-25,000</td> <td>25,001-50,000</td> <td>100,001-100,000</td> <td>OVER 100,000</td> </tr> <tr> <td><input checked="" type="checkbox"/></td> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> </tr> </table>										1-49	50-99	100-199	200-999	1000-5,000	5001-10,000	10,001-25,000	25,001-50,000	100,001-100,000	OVER 100,000	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
1-49	50-99	100-199	200-999	1000-5,000	5001-10,000	10,001-25,000	25,001-50,000	100,001-100,000	OVER 100,000																				
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>																				
Estimated Assets <table style="width:100%;"> <tr> <td><input type="checkbox"/> \$0 to \$10,000</td> <td><input type="checkbox"/> \$10,001 to \$100,000</td> <td><input checked="" type="checkbox"/> \$100,001 to \$1 million</td> <td><input type="checkbox"/> \$1,000,001 to \$100 million</td> <td><input type="checkbox"/> More than \$100 million</td> </tr> </table>										<input type="checkbox"/> \$0 to \$10,000	<input type="checkbox"/> \$10,001 to \$100,000	<input checked="" type="checkbox"/> \$100,001 to \$1 million	<input type="checkbox"/> \$1,000,001 to \$100 million	<input type="checkbox"/> More than \$100 million															
<input type="checkbox"/> \$0 to \$10,000	<input type="checkbox"/> \$10,001 to \$100,000	<input checked="" type="checkbox"/> \$100,001 to \$1 million	<input type="checkbox"/> \$1,000,001 to \$100 million	<input type="checkbox"/> More than \$100 million																									
Estimated Liabilities <table style="width:100%;"> <tr> <td><input type="checkbox"/> \$0 to \$50,000</td> <td><input type="checkbox"/> \$50,001 to \$100,000</td> <td><input checked="" type="checkbox"/> \$100,001 to \$1 million</td> <td><input type="checkbox"/> \$1,000,001 to \$100 million</td> <td><input type="checkbox"/> More than \$100 million</td> </tr> </table>										<input type="checkbox"/> \$0 to \$50,000	<input type="checkbox"/> \$50,001 to \$100,000	<input checked="" type="checkbox"/> \$100,001 to \$1 million	<input type="checkbox"/> \$1,000,001 to \$100 million	<input type="checkbox"/> More than \$100 million															
<input type="checkbox"/> \$0 to \$50,000	<input type="checkbox"/> \$50,001 to \$100,000	<input checked="" type="checkbox"/> \$100,001 to \$1 million	<input type="checkbox"/> \$1,000,001 to \$100 million	<input type="checkbox"/> More than \$100 million																									

THIS SPACE IS FOR COURT USE ONLY

Official Form 1 (10/06)

FORM B1, Page 2

Voluntary Petition

(This page must be completed and filed in every case)

Name of Debtor(s):

**Hawk, Brian K.
Hawk, Mary Ellen**

All Prior Bankruptcy Cases Filed Within Last 8 Years (If more than two, attach additional sheet)

Location Where Filed: - None -	Case Number:	Date Filed:
Location Where Filed:	Case Number:	Date Filed:

Pending Bankruptcy Case Filed by any Spouse, Partner, or Affiliate of this Debtor (If more than one, attach additional sheet)

Name of Debtor: - None -	Case Number:	Date Filed:
District:	Relationship:	Judge:

Exhibit A

(To be completed if debtor is required to file periodic reports (e.g., forms 10K and 10Q) with the Securities and Exchange Commission pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934 and is requesting relief under chapter 11.)

☐ Exhibit A is attached and made a part of this petition.

Exhibit B

(To be completed if debtor is an individual whose debts are primarily consumer debts.)

I, the attorney for the petitioner named in the foregoing petition, declare that I have informed the petitioner that [he or she] may proceed under chapter 7, 11, 12, or 13 of title 11, United States Code, and have explained the relief available under each such chapter. I further certify that I delivered to the debtor the notice required by 11 U.S.C. §342(b).

X /s/ Craig R. Jorgensen **October 5, 2006**
Signature of Attorney for Debtor(s) (Date)
Craig R. Jorgensen

Exhibit C

Does the debtor own or have possession of any property that poses or is alleged to pose a threat of imminent and identifiable harm to public health or safety?

- ☐ Yes, and Exhibit C is attached and made a part of this petition.
☒ No.

Exhibit D

(To be completed by every individual debtor. If a joint petition is filed, each spouse must complete and attach a separate Exhibit D.)

☒ Exhibit D completed and signed by the debtor is attached and made a part of this petition.

If this is a joint petition:

☒ Exhibit D also completed and signed by the joint debtor is attached and made a part of this petition.

Information Regarding the Debtor - Venue

(Check any applicable box)

- ☒ Debtor has been domiciled or has had a residence, principal place of business, or principal assets in this District for 180 days immediately preceding the date of this petition or for a longer part of such 180 days than in any other District.
☐ There is a bankruptcy case concerning debtor's affiliate, general partner, or partnership pending in this District.
☐ Debtor is a debtor in a foreign proceeding and has its principal place of business or principal assets in the United States in this District, or has no principal place of business or assets in the United States but is a defendant in an action or proceeding [in a federal or state court] in this District, or the interests of the parties will be served in regard to the relief sought in this District.

Statement by a Debtor Who Resides as a Tenant of Residential Property

(Check all applicable boxes)

- ☐ Landlord has a judgment against the debtor for possession of debtor's residence. (If box checked, complete the following.)

(Name of landlord that obtained judgment)

(Address of landlord)

- ☐ Debtor claims that under applicable nonbankruptcy law, there are circumstances under which the debtor would be permitted to cure the entire monetary default that gave rise to the judgment for possession, after the judgment for possession was entered, and
☐ Debtor has included in this petition the deposit with the court of any rent that would become due during the 30-day period after the filing of the petition.

Voluntary Petition*(This page must be completed and filed in every case)*

Name of Debtor(s):

Hawk, Brian K.**Hawk, Mary Ellen****Signatures****Signature(s) of Debtor(s) (Individual/Joint)**

I declare under penalty of perjury that the information provided in this petition is true and correct.
 [If petitioner is an individual whose debts are primarily consumer debts and has chosen to file under chapter 7] I am aware that I may proceed under chapter 7, 11, 12, or 13 of title 11, United States Code, understand the relief available under each such chapter, and choose to proceed under chapter 7.

[If no attorney represents me and no bankruptcy petition preparer signs the petition] I have obtained and read the notice required by 11 U.S.C. §342(b).

I request relief in accordance with the chapter of title 11, United States Code, specified in this petition.

X /s/ Brian K. HawkSignature of Debtor **Brian K. Hawk****X** /s/ Mary Ellen HawkSignature of Joint Debtor **Mary Ellen Hawk**

Telephone Number (If not represented by attorney)

October 5, 2006

Date

Signature of Attorney**X** /s/ Craig R. Jorgensen

Signature of Attorney for Debtor(s)

Craig R. Jorgensen

Printed Name of Attorney for Debtor(s)

Craig R. Jorgensen, Attorney at Law

Firm Name

**1246 Yellowstone, Suite A4
Pocatello, ID 83205-4904**

Address

Email: Biggunlaw@cableone.net**208-237-4100 Fax: 208-237-1706**

Telephone Number

October 5, 2006

Date

Signature of Debtor (Corporation/Partnership)

I declare under penalty of perjury that the information provided in this petition is true and correct, and that I have been authorized to file this petition on behalf of the debtor.

The debtor requests relief in accordance with the chapter of title 11, United States Code, specified in this petition.

X _____
Signature of Authorized Individual_____
Printed Name of Authorized Individual_____
Title of Authorized Individual_____
Date**Signature of a Foreign Representative**

I declare under penalty of perjury that the information provided in this petition is true and correct, that I am the foreign representative of a debtor in a foreign proceeding, and that I am authorized to file this petition.

(Check only one box.)

☐ I request relief in accordance with chapter 15 of title 11, United States Code. Certified copies of the documents required by 11 U.S.C. §1515 are attached.

☐ Pursuant to 11 U.S.C. §1511, I request relief in accordance with the chapter of title 11 specified in this petition. A certified copy of the order granting recognition of the foreign main proceeding is attached.

X _____

Signature of Foreign Representative

Printed Name of Foreign Representative_____
Date**Signature of Non-Attorney Bankruptcy Petition Preparer**

I declare under penalty of perjury that: (1) I am a bankruptcy petition preparer as defined in 11 U.S.C. § 110; (2) I prepared this document for compensation and have provided the debtor with a copy of this document and the notices and information required under 11 U.S.C. §§ 110(b), 110(h), and 342(b); and, (3) if rules or guidelines have been promulgated pursuant to 11 U.S.C. § 110(h) setting a maximum fee for services chargeable by bankruptcy petition preparers, I have given the debtor notice of the maximum amount before preparing any document for filing for a debtor or accepting any fee from the debtor, as required in that section. Official Form 19B is attached.

Printed Name and title, if any, of Bankruptcy Petition Preparer

Social Security number (If the bankruptcy petition preparer is not an individual, state the Social Security number of the officer, principal, responsible person or partner of the bankruptcy petition preparer.) (Required by 11 U.S.C. § 110.)

Address**X** __________
Date

Signature of Bankruptcy Petition Preparer or officer, principal, responsible person, or partner whose Social Security number is provided above.

Names and Social Security numbers of all other individuals who prepared or assisted in preparing this document unless the bankruptcy petition preparer is not an individual:

If more than one person prepared this document, attach additional sheets conforming to the appropriate official form for each person.

A bankruptcy petition preparer's failure to comply with the provisions of title 11 and the Federal Rules of Bankruptcy Procedure may result in fines or imprisonment or both 11 U.S.C. §110; 18 U.S.C. §156.

Official Form 1, Exhibit D (10/06)

United States Bankruptcy Court
District of Idaho

In re Brian K. Hawk
Mary Ellen Hawk

Debtor(s)

Case No.
Chapter

7

**EXHIBIT D - INDIVIDUAL DEBTOR'S STATEMENT OF COMPLIANCE WITH
CREDIT COUNSELING REQUIREMENT**

Warning: You must be able to check truthfully one of the five statements regarding credit counseling listed below. If you cannot do so, you are not eligible to file a bankruptcy case, and the court can dismiss any case you do file. If that happens, you will lose whatever filing fee you paid, and your creditors will be able to resume collection activities against you. If your case is dismissed and you file another bankruptcy case later, you may be required to pay a second filing fee and you may have to take extra steps to stop creditors' collection activities.

Every individual debtor must file this Exhibit D. If a joint petition is filed, each spouse must complete and file a separate Exhibit D. Check one of the five statements below and attach any documents as directed.

☒ 1. Within the 180 days **before the filing of my bankruptcy case**, I received a briefing from a credit counseling agency approved by the United States trustee or bankruptcy administrator that outlined the opportunities for available credit counseling and assisted me in performing a related budget analysis, and I have a certificate from the agency describing the services provided to me. *Attach a copy of the certificate and a copy of any debt repayment plan developed through the agency.*

☐ 2. Within the 180 days **before the filing of my bankruptcy case**, I received a briefing from a credit counseling agency approved by the United States trustee or bankruptcy administrator that outlined the opportunities for available credit counseling and assisted me in performing a related budget analysis, but I do not have a certificate from the agency describing the services provided to me. *You must file a copy of a certificate from the agency describing the services provided to you and a copy of any debt repayment plan developed through the agency no later than 15 days after your bankruptcy case is filed.*

☐ 3. I certify that I requested credit counseling services from an approved agency but was unable to obtain the services during the five days from the time I made my request, and the following exigent circumstances merit a temporary waiver of the credit counseling requirement so I can file my bankruptcy case now. *[Must be accompanied by a motion for determination by the court.][Summarize exigent circumstances here.]* _____

Official Form 1, Exh. D (10/06) - Cont.

If the court is satisfied with the reasons stated in your motion, it will send you an order approving your request. You must still obtain the credit counseling briefing within the first 30 days after you file your bankruptcy case and promptly file a certificate from the agency that provided the briefing, together with a copy of any debt management plan developed through the agency. Any extension of the 30-day deadline can be granted only for cause and is limited to a maximum of 15 days. A motion for extension must be filed within the 30-day period. Failure to fulfill these requirements may result in dismissal of your case. If the court is not satisfied with your reasons for filing your bankruptcy case without first receiving a credit counseling briefing, your case may be dismissed.

☐ 4. I am not required to receive a credit counseling briefing because of: *[Check the applicable statement.] [Must be accompanied by a motion for determination by the court.]*

☐ Incapacity. (Defined in 11 U.S.C. § 109(h)(4) as impaired by reason of mental illness or mental deficiency so as to be incapable of realizing and making rational decisions with respect to financial responsibilities.);

☐ Disability. (Defined in 11 U.S.C. § 109(h)(4) as physically impaired to the extent of being unable, after reasonable effort, to participate in a credit counseling briefing in person, by telephone, or through the Internet.);

☐ Active military duty in a military combat zone.

☐ 5. The United States trustee or bankruptcy administrator has determined that the credit counseling requirement of 11 U.S.C. § 109(h) does not apply in this district.

I certify under penalty of perjury that the information provided above is true and correct.

Signature of Debtor: /s/ Brian K. Hawk
Brian K. Hawk

Date: October 5, 2006

Official Form 1, Exhibit D (10/06)

United States Bankruptcy Court
District of Idaho

In re Brian K. Hawk
Mary Ellen Hawk

Debtor(s)

Case No.
Chapter

7

**EXHIBIT D - INDIVIDUAL DEBTOR'S STATEMENT OF COMPLIANCE WITH
CREDIT COUNSELING REQUIREMENT**

Warning: You must be able to check truthfully one of the five statements regarding credit counseling listed below. If you cannot do so, you are not eligible to file a bankruptcy case, and the court can dismiss any case you do file. If that happens, you will lose whatever filing fee you paid, and your creditors will be able to resume collection activities against you. If your case is dismissed and you file another bankruptcy case later, you may be required to pay a second filing fee and you may have to take extra steps to stop creditors' collection activities.

Every individual debtor must file this Exhibit D. If a joint petition is filed, each spouse must complete and file a separate Exhibit D. Check one of the five statements below and attach any documents as directed.

☒ 1. Within the 180 days **before the filing of my bankruptcy case**, I received a briefing from a credit counseling agency approved by the United States trustee or bankruptcy administrator that outlined the opportunities for available credit counseling and assisted me in performing a related budget analysis, and I have a certificate from the agency describing the services provided to me. *Attach a copy of the certificate and a copy of any debt repayment plan developed through the agency.*

☐ 2. Within the 180 days **before the filing of my bankruptcy case**, I received a briefing from a credit counseling agency approved by the United States trustee or bankruptcy administrator that outlined the opportunities for available credit counseling and assisted me in performing a related budget analysis, but I do not have a certificate from the agency describing the services provided to me. *You must file a copy of a certificate from the agency describing the services provided to you and a copy of any debt repayment plan developed through the agency no later than 15 days after your bankruptcy case is filed.*

☐ 3. I certify that I requested credit counseling services from an approved agency but was unable to obtain the services during the five days from the time I made my request, and the following exigent circumstances merit a temporary waiver of the credit counseling requirement so I can file my bankruptcy case now. *[Must be accompanied by a motion for determination by the court.][Summarize exigent circumstances here.]* _____

Official Form 1, Exh. D (10/06) - Cont.

If the court is satisfied with the reasons stated in your motion, it will send you an order approving your request. You must still obtain the credit counseling briefing within the first 30 days after you file your bankruptcy case and promptly file a certificate from the agency that provided the briefing, together with a copy of any debt management plan developed through the agency. Any extension of the 30-day deadline can be granted only for cause and is limited to a maximum of 15 days. A motion for extension must be filed within the 30-day period. Failure to fulfill these requirements may result in dismissal of your case. If the court is not satisfied with your reasons for filing your bankruptcy case without first receiving a credit counseling briefing, your case may be dismissed.

☐ 4. I am not required to receive a credit counseling briefing because of: *[Check the applicable statement.] [Must be accompanied by a motion for determination by the court.]*

☐ Incapacity. (Defined in 11 U.S.C. § 109(h)(4) as impaired by reason of mental illness or mental deficiency so as to be incapable of realizing and making rational decisions with respect to financial responsibilities.);

☐ Disability. (Defined in 11 U.S.C. § 109(h)(4) as physically impaired to the extent of being unable, after reasonable effort, to participate in a credit counseling briefing in person, by telephone, or through the Internet.);

☐ Active military duty in a military combat zone.

☐ 5. The United States trustee or bankruptcy administrator has determined that the credit counseling requirement of 11 U.S.C. § 109(h) does not apply in this district.

I certify under penalty of perjury that the information provided above is true and correct.

Signature of Debtor: /s/ Mary Ellen Hawk
Mary Ellen Hawk

Date: October 5, 2006

Form 6-Summary (10/06)

**United States Bankruptcy Court
District of Idaho**

In re **Brian K. Hawk,
Mary Ellen Hawk**

Debtors

Case No. _____

Chapter **7**

SUMMARY OF SCHEDULES

Indicate as to each schedule whether that schedule is attached and state the number of pages in each. Report the totals from Schedules A, B, D, E, F, I, and J in the boxes provided. Add the amounts from Schedules A and B to determine the total amount of the debtor's assets. Add the amounts of all claims from Schedules D, E, and F to determine the total amount of the debtor's liabilities. Individual debtors must also complete the "Statistical Summary of Certain Liabilities and Related Data" if they file a case under chapter 7, 11, or 13.

NAME OF SCHEDULE	ATTACHED (YES/NO)	NO. OF SHEETS	ASSETS	LIABILITIES	OTHER
A - Real Property	Yes	1	107,000.00		
B - Personal Property	Yes	6	33,301.00		
C - Property Claimed as Exempt	Yes	4			
D - Creditors Holding Secured Claims	Yes	1		113,926.67	
E - Creditors Holding Unsecured Priority Claims (Total of Claims on Schedule E)	Yes	1		0.00	
F - Creditors Holding Unsecured Nonpriority Claims	Yes	6		81,442.06	
G - Executory Contracts and Unexpired Leases	Yes	1			
H - Codebtors	Yes	1			
I - Current Income of Individual Debtor(s)	Yes	2			4,790.12
J - Current Expenditures of Individual Debtor(s)	Yes	2			4,645.82
Total Number of Sheets of ALL Schedules		25			
Total Assets			140,301.00		
Total Liabilities				195,368.73	

**United States Bankruptcy Court
District of Idaho**

In re **Brian K. Hawk,
Mary Ellen Hawk**

Debtors

Case No. _____

Chapter 7

STATISTICAL SUMMARY OF CERTAIN LIABILITIES AND RELATED DATA (28 U.S.C. § 159)

If you are an individual debtor whose debts are primarily consumer debts, as defined in § 101(8) of the Bankruptcy Code (11 U.S.C. § 101(8)), filing a case under chapter 7, 11 or 13, you must report all information requested below.

☐ Check this box if you are an individual debtor whose debts are NOT primarily consumer debts. You are not required to report any information here.

This information is for statistical purposes only under 28 U.S.C. § 159.

Summarize the following types of liabilities, as reported in the Schedules, and total them.

Type of Liability	Amount
Domestic Support Obligations (from Schedule E)	0.00
Taxes and Certain Other Debts Owed to Governmental Units (from Schedule E) (whether disputed or undisputed)	0.00
Claims for Death or Personal Injury While Debtor Was Intoxicated (from Schedule E)	0.00
Student Loan Obligations (from Schedule F)	0.00
Domestic Support, Separation Agreement, and Divorce Decree Obligations Not Reported on Schedule E	0.00
Obligations to Pension or Profit-Sharing, and Other Similar Obligations (from Schedule F)	0.00
TOTAL	0.00

State the following:

Average Income (from Schedule I, Line 16)	4,790.12
Average Expenses (from Schedule J, Line 18)	4,645.82
Current Monthly Income (from Form 22A Line 12; OR, Form 22B Line 11; OR, Form 22C Line 20)	4,747.94

State the following:

1. Total from Schedule D, "UNSECURED PORTION, IF ANY" column		2,991.67
2. Total from Schedule E, "AMOUNT ENTITLED TO PRIORITY" column	0.00	
3. Total from Schedule E, "AMOUNT NOT ENTITLED TO PRIORITY, IF ANY" column		0.00
4. Total from Schedule F		81,442.06
5. Total of non-priority unsecured debt (sum of 1, 3, and 4)		84,433.73

Form B6A
(10/05)

In re **Brian K. Hawk,
Mary Ellen Hawk**

Case No. _____

Debtors

SCHEDULE A. REAL PROPERTY

Except as directed below, list all real property in which the debtor has any legal, equitable, or future interest, including all property owned as a cotenant, community property, or in which the debtor has a life estate. Include any property in which the debtor holds rights and powers exercisable for the debtor's own benefit. If the debtor is married, state whether husband, wife, or both own the property by placing an "H," "W," "J," or "C" in the column labeled "Husband, Wife, Joint, or Community." If the debtor holds no interest in real property, write "None" under "Description and Location of Property."

Do not include interests in executory contracts and unexpired leases on this schedule. List them in Schedule G - Executory Contracts and Unexpired Leases.

If an entity claims to have a lien or hold a secured interest in any property, state the amount of the secured claim. See Schedule D. If no entity claims to hold a secured interest in the property, write "None" in the column labeled "Amount of Secured Claim."

If the debtor is an individual or if a joint petition is filed, state the amount of any exemption claimed in the property only in Schedule C - Property Claimed as Exempt.

Description and Location of Property	Nature of Debtor's Interest in Property	Husband, Wife, Joint, or Community	Current Value of Debtor's Interest in Property, without Deducting any Secured Claim or Exemption	Amount of Secured Claim
Location: 1185 Spruce Street, Pocatello ID	Fee simple	C	107,000.00	108,184.67

Sub-Total > **107,000.00** (Total of this page)

Total > **107,000.00**

(Report also on Summary of Schedules)

0 continuation sheets attached to the Schedule of Real Property

Form B6B
(10/05)

In re **Brian K. Hawk,
Mary Ellen Hawk**

Case No. _____

Debtors

SCHEDULE B. PERSONAL PROPERTY

Except as directed below, list all personal property of the debtor of whatever kind. If the debtor has no property in one or more of the categories, place an "x" in the appropriate position in the column labeled "None." If additional space is needed in any category, attach a separate sheet properly identified with the case name, case number, and the number of the category. If the debtor is married, state whether husband, wife, or both own the property by placing an "H," "W," "J," or "C" in the column labeled "Husband, Wife, Joint, or Community." If the debtor is an individual or a joint petition is filed, state the amount of any exemptions claimed only in Schedule C - Property Claimed as Exempt.

Do not list interests in executory contracts and unexpired leases on this schedule. List them in Schedule G - Executory Contracts and Unexpired Leases.

If the property is being held for the debtor by someone else, state that person's name and address under "Description and Location of Property." In providing the information requested in this schedule, do not include the name or address of a minor child. Simply state "a minor child."

Type of Property	N O N E	Description and Location of Property	Husband, Wife, Joint, or Community	Current Value of Debtor's Interest in Property, without Deducting any Secured Claim or Exemption
1. Cash on hand	X			
2. Checking, savings or other financial accounts, certificates of deposit, or shares in banks, savings and loan, thrift, building and loan, and homestead associations, or credit unions, brokerage houses, or cooperatives.			C	25.00
			C	25.00
			C	25.00
			J	140.00
3. Security deposits with public utilities, telephone companies, landlords, and others.	X			
4. Household goods and furnishings, including audio, video, and computer equipment.		3 couches Location: 1185 Spruce Street, Pocatello ID	C	125.00
		2 love seats Location: 1185 Spruce Street, Pocatello ID	C	40.00
		3 recliners Location: 1185 Spruce Street, Pocatello ID	C	45.00
		6 end tables Location: 1185 Spruce Street, Pocatello ID	C	60.00
		1 coffee table Location: 1185 Spruce Street, Pocatello ID	C	10.00
		1 queen bed Location: 1185 Spruce Street, Pocatello ID	C	30.00
Sub-Total >				525.00
(Total of this page)				

5 continuation sheets attached to the Schedule of Personal Property

Form B6B
(10/05)

In re **Brian K. Hawk,
Mary Ellen Hawk**

Case No. _____

Debtors

SCHEDULE B. PERSONAL PROPERTY
(Continuation Sheet)

Type of Property	N O N E	Description and Location of Property	Husband, Wife, Joint, or Community	Current Value of Debtor's Interest in Property, without Deducting any Secured Claim or Exemption
		1 twin bed Location: 1185 Spruce Street, Pocatello ID	C	20.00
		1 water bed Location: 1185 Spruce Street, Pocatello ID	C	20.00
		4 televisions Location: 1185 Spruce Street, Pocatello ID	C	100.00
		4 dressers Location: 1185 Spruce Street, Pocatello ID	C	60.00
		1 armoire Location: 1185 Spruce Street, Pocatello ID	C	25.00
		2 curio cabinets Location: 1185 Spruce Street, Pocatello ID	C	50.00
		5 lamps Location: 1185 Spruce Street, Pocatello ID	C	25.00
		washer and dryer Location: 1185 Spruce Street, Pocatello ID	C	60.00
		chest freezer Location: 1185 Spruce Street, Pocatello ID	C	25.00
		Kitchen table and chairs Location: 1185 Spruce Street, Pocatello ID	C	40.00
		Microwave Oven Location: 1185 Spruce Street, Pocatello ID	C	10.00
		Gas Stove	C	60.00
		Dishwasher Location: 1185 Spruce Street, Pocatello ID	C	25.00
		Refrigerator Location: 1185 Spruce Street, Pocatello ID	C	80.00
		Bakers Rack Location: 1185 Spruce Street, Pocatello ID	C	10.00
		Misc. kitchen appliances Location: 1185 Spruce Street, Pocatello ID	C	25.00
		Dishes, pots & pans, silverware Location: 1185 Spruce Street, Pocatello ID	C	50.00

Sub-Total > **685.00**
(Total of this page)

Sheet 1 of 5 continuation sheets attached
to the Schedule of Personal Property

Form B6B
(10/05)

In re **Brian K. Hawk,
Mary Ellen Hawk**

Case No. _____

Debtors

SCHEDULE B. PERSONAL PROPERTY
(Continuation Sheet)

Type of Property	N O N E	Description and Location of Property	Husband, Wife, Joint, or Community	Current Value of Debtor's Interest in Property, without Deducting any Secured Claim or Exemption
		Towels and linens Location: 1185 Spruce Street, Pocatello ID	C	20.00
		Lawn mower Location: 1185 Spruce Street, Pocatello ID	C	25.00
		Misc. lawn and garden tools Location: 1185 Spruce Street, Pocatello ID	C	10.00
		Misc. tools Location: 1185 Spruce Street, Pocatello ID	C	50.00
		Trampoline Location: 1185 Spruce Street, Pocatello ID	C	30.00
		Swing Set Location: 1185 Spruce Street, Pocatello ID	C	15.00
		Misc. toys and games Location: 1185 Spruce Street, Pocatello ID	C	75.00
		4 Stereo's Location: 1185 Spruce Street, Pocatello ID	C	60.00
		4 VCR's Location: 1185 Spruce Street, Pocatello ID	C	25.00
		3 DVD Players Location: 1185 Spruce Street, Pocatello ID	C	30.00
		2 vacuum cleaners Location: 1185 Spruce Street, Pocatello ID	C	20.00
5. Books, pictures and other art objects, antiques, stamp, coin, record, tape, compact disc, and other collections or collectibles.		Books Location: 1185 Spruce Street, Pocatello ID	C	20.00
		Pictures Location: 1185 Spruce Street, Pocatello ID	C	60.00
		CD's, DVD's, videos Location: 1185 Spruce Street, Pocatello ID	C	110.00
		Knick Knacks Location: 1185 Spruce Street, Pocatello ID	C	20.00
6. Wearing apparel.		Men's Clothing Location: 1185 Spruce Street, Pocatello ID	C	200.00

Sub-Total > **770.00**
(Total of this page)

Sheet 2 of 5 continuation sheets attached
to the Schedule of Personal Property

Form B6B
(10/05)

In re **Brian K. Hawk,
Mary Ellen Hawk**

Case No. _____

Debtors

SCHEDULE B. PERSONAL PROPERTY
(Continuation Sheet)

Type of Property	N O N E	Description and Location of Property	Husband, Wife, Joint, or Community	Current Value of Debtor's Interest in Property, without Deducting any Secured Claim or Exemption
		Women's Clothing Location: 1185 Spruce Street, Pocatello ID	C	300.00
		Girls Clothing Location: 1185 Spruce Street, Pocatello ID	C	200.00
		Boys Clothing Location: 1185 Spruce Street, Pocatello ID	C	200.00
7. Furs and jewelry.		2 Wedding Rings Location: 1185 Spruce Street, Pocatello ID	C	500.00
		Costume Jewelry Location: 1185 Spruce Street, Pocatello ID	C	40.00
8. Firearms and sports, photographic, and other hobby equipment.		Ruger 1022 Cal. Rifle Location: 1185 Spruce Street, Pocatello ID	C	50.00
		Ruger Security Six 357 Pistol Location: 1185 Spruce Street, Pocatello ID	C	125.00
		50 Cal. Muzzle Loader Location: 1185 Spruce Street, Pocatello ID	C	20.00
		Eastman Bow Location: 1185 Spruce Street, Pocatello ID	C	25.00
		Set of Golf Clubs Location: 1185 Spruce Street, Pocatello ID	C	35.00
		2 Cameras Location: 1185 Spruce Street, Pocatello ID	C	40.00
9. Interests in insurance policies. Name insurance company of each policy and itemize surrender or refund value of each.	X			
10. Annuities. Itemize and name each issuer.	X			
11. Interests in an education IRA as defined in 26 U.S.C. § 530(b)(1) or under a qualified State tuition plan as defined in 26 U.S.C. § 529(b)(1). Give particulars. (File separately the record(s) of any such interest(s). 11 U.S.C. § 521(c); Rule 1007(b)).	X			

Sub-Total > **1,535.00**
(Total of this page)

Sheet 3 of 5 continuation sheets attached
to the Schedule of Personal Property

Form B6B
(10/05)

In re **Brian K. Hawk,
Mary Ellen Hawk**

Case No. _____

Debtors

SCHEDULE B. PERSONAL PROPERTY
(Continuation Sheet)

Type of Property	N O N E	Description and Location of Property	Husband, Wife, Joint or Community	Current Value of Debtor's Interest in Property, without Deducting any Secured Claim or Exemption
12. Interests in IRA, ERISA, Keogh, or other pension or profit sharing plans. Give particulars.	X			
13. Stock and interests in incorporated and unincorporated businesses. Itemize.	X			
14. Interests in partnerships or joint ventures. Itemize.	X			
15. Government and corporate bonds and other negotiable and nonnegotiable instruments.	X			
16. Accounts receivable.	X			
17. Alimony, maintenance, support, and property settlements to which the debtor is or may be entitled. Give particulars.		Child Support owed to Joint Debtor	W	23,556.00
18. Other liquidated debts owing debtor including tax refunds. Give particulars.	X			
19. Equitable or future interests, life estates, and rights or powers exercisable for the benefit of the debtor other than those listed in Schedule A - Real Property.	X			
20. Contingent and noncontingent interests in estate of a decedent, death benefit plan, life insurance policy, or trust.	X			
21. Other contingent and unliquidated claims of every nature, including tax refunds, counterclaims of the debtor, and rights to setoff claims. Give estimated value of each.	X			
22. Patents, copyrights, and other intellectual property. Give particulars.	X			
23. Licenses, franchises, and other general intangibles. Give particulars.	X			

Sub-Total > **23,556.00**
(Total of this page)

Sheet 4 of 5 continuation sheets attached to the Schedule of Personal Property

Form B6B
(10/05)

In re **Brian K. Hawk,
Mary Ellen Hawk**

Case No. _____

Debtors

SCHEDULE B. PERSONAL PROPERTY
(Continuation Sheet)

Type of Property	N O N E	Description and Location of Property	Husband, Wife, Joint or Community	Current Value of Debtor's Interest in Property, without Deducting any Secured Claim or Exemption
24. Customer lists or other compilations containing personally identifiable information (as defined in 11 U.S.C. § 101(41A)) provided to the debtor by individuals in connection with obtaining a product or service from the debtor primarily for personal, family, or household purposes.	X			
25. Automobiles, trucks, trailers, and other vehicles and accessories.		1999 Chrysler LHS Location: 1185 Spruce Street, Pocatello ID	C	3,935.00
		1988 Jeep Wrangler Location: 1185 Spruce Street, Pocatello ID	C	1,475.00
		1988 Ford Bronco Location: 1185 Spruce Street, Pocatello ID	C	785.00
26. Boats, motors, and accessories.	X			
27. Aircraft and accessories.	X			
28. Office equipment, furnishings, and supplies.		Desk Location: 1185 Spruce Street, Pocatello ID	C	15.00
		Fax Machine Location: 1185 Spruce Street, Pocatello ID	C	20.00
29. Machinery, fixtures, equipment, and supplies used in business.	X			
30. Inventory.	X			
31. Animals.	X			
32. Crops - growing or harvested. Give particulars.	X			
33. Farming equipment and implements.	X			
34. Farm supplies, chemicals, and feed.	X			
35. Other personal property of any kind not already listed. Itemize.	X			

Sub-Total > **6,230.00**
(Total of this page)
Total > **33,301.00**

Sheet 5 of 5 continuation sheets attached
to the Schedule of Personal Property

(Report also on Summary of Schedules)

Form B6C
(10/05)

In re **Brian K. Hawk,
Mary Ellen Hawk**

Case No. _____

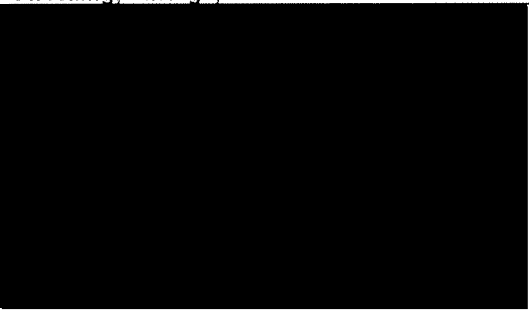
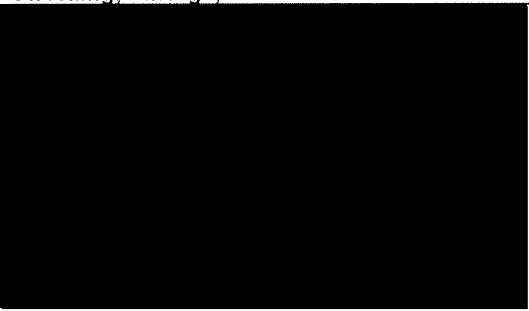
Debtors

SCHEDULE C. PROPERTY CLAIMED AS EXEMPT

Debtor elects the exemptions to which debtor is entitled under:
(Check one box)

- ☐ 11 U.S.C. §522(b)(2)
☒ 11 U.S.C. §522(b)(3)

☐ Check if debtor claims a homestead exemption that exceeds \$125,000.

Description of Property	Specify Law Providing Each Exemption	Value of C Claimed Exemption	Current Value of Property Without Deducting Exemption
Real Property			
Location: 1185 Spruce Street, Pocatello ID	Idaho Code §§ 55-1001, 55-1002, 55-1003	100,000.00	107,000.00
Checking, Savings, or Other Financial Accounts, Certificates of Deposit			
	Idaho Code § 11-605(10)	100.00	25.00
	Idaho Code § 11-605(10)	100.00	25.00
	Idaho Code § 11-605(10)	25.00	25.00
Household Goods and Furnishings			
3 couches Location: 1185 Spruce Street, Pocatello ID	Idaho Code § 11-605(1)(a)	125.00	125.00
2 love seats Location: 1185 Spruce Street, Pocatello ID	Idaho Code § 11-605(1)(a)	40.00	40.00
3 recliners Location: 1185 Spruce Street, Pocatello ID	Idaho Code § 11-605(1)(a)	45.00	45.00
6 end tables Location: 1185 Spruce Street, Pocatello ID	Idaho Code § 11-605(1)(a)	60.00	60.00
1 coffee table Location: 1185 Spruce Street, Pocatello ID	Idaho Code § 11-605(1)(a)	10.00	10.00
1 queen bed Location: 1185 Spruce Street, Pocatello ID	Idaho Code § 11-605(1)(a)	30.00	30.00
1 twin bed Location: 1185 Spruce Street, Pocatello ID	Idaho Code § 11-605(1)(a)	20.00	20.00
1 water bed Location: 1185 Spruce Street, Pocatello ID	Idaho Code § 11-605(1)(a)	20.00	20.00
4 televisions Location: 1185 Spruce Street, Pocatello ID	Idaho Code § 11-605(1)(a)	100.00	100.00
4 dressers Location: 1185 Spruce Street, Pocatello ID	Idaho Code § 11-605(1)(a)	60.00	60.00
1 armoire Location: 1185 Spruce Street, Pocatello ID	Idaho Code § 11-605(1)(a)	25.00	25.00

3 continuation sheets attached to Schedule of Property Claimed as Exempt

Form B6C
(10/05)

In re **Brian K. Hawk,
Mary Ellen Hawk**

Case No. _____

Debtors

SCHEDULE C. PROPERTY CLAIMED AS EXEMPT
(Continuation Sheet)

Description of Property	Specify Law Providing Each Exemption	Value of C Claimed Exemption	Current Value of Property Without Deducting Exemption
2 curio cabinets Location: 1185 Spruce Street, Pocatello ID	Idaho Code § 11-605(1)(a)	50.00	50.00
5 lamps Location: 1185 Spruce Street, Pocatello ID	Idaho Code § 11-605(1)(a)	25.00	25.00
washer and dryer Location: 1185 Spruce Street, Pocatello ID	Idaho Code § 11-605(1)(a)	60.00	60.00
chest freezer Location: 1185 Spruce Street, Pocatello ID	Idaho Code § 11-605(1)(a)	25.00	25.00
Kitchen table and chairs Location: 1185 Spruce Street, Pocatello ID	Idaho Code § 11-605(1)(a)	40.00	40.00
Microwave Oven Location: 1185 Spruce Street, Pocatello ID	Idaho Code § 11-605(1)(a)	10.00	10.00
Gas Stove	Idaho Code § 11-605(1)(a)	60.00	60.00
Dishwasher Location: 1185 Spruce Street, Pocatello ID	Idaho Code § 11-605(1)(a)	25.00	25.00
Refrigerator Location: 1185 Spruce Street, Pocatello ID	Idaho Code § 11-605(1)(a)	80.00	80.00
Bakers Rack Location: 1185 Spruce Street, Pocatello ID	Idaho Code § 11-605(1)(a)	10.00	10.00
Misc. kitchen appliances Location: 1185 Spruce Street, Pocatello ID	Idaho Code § 11-605(1)(a)	25.00	25.00
Dishes, pots & pans, silverware Location: 1185 Spruce Street, Pocatello ID	Idaho Code § 11-605(1)(a)	50.00	50.00
Towels and linens Location: 1185 Spruce Street, Pocatello ID	Idaho Code § 11-605(1)(a)	20.00	20.00
Lawn mower Location: 1185 Spruce Street, Pocatello ID	Idaho Code § 11-605(1)(a)	25.00	25.00
Misc. lawn and garden tools Location: 1185 Spruce Street, Pocatello ID	Idaho Code § 11-605(1)(a)	10.00	10.00
Misc. tools Location: 1185 Spruce Street, Pocatello ID	Idaho Code § 11-605(1)(a)	50.00	50.00
Trampoline Location: 1185 Spruce Street, Pocatello ID	Idaho Code § 11-605(1)(a)	30.00	30.00
Swing Set Location: 1185 Spruce Street, Pocatello ID	Idaho Code § 11-605(1)(a)	15.00	15.00
Misc. toys and games Location: 1185 Spruce Street, Pocatello ID	Idaho Code § 11-605(1)(a)	75.00	75.00

Sheet 1 of 3 continuation sheets attached to the Schedule of Property Claimed as Exempt

Form B6C
(10/05)

In re **Brian K. Hawk,
Mary Ellen Hawk**

Case No. _____

Debtors

SCHEDULE C. PROPERTY CLAIMED AS EXEMPT
(Continuation Sheet)

Description of Property	Specify Law Providing Each Exemption	Value of Claimed Exemption	Current Value of Property Without Deducting Exemption
4 Stereo's Location: 1185 Spruce Street, Pocatello ID	Idaho Code § 11-605(1)(a)	60.00	60.00
4 VCR's Location: 1185 Spruce Street, Pocatello ID	Idaho Code § 11-605(1)(a)	25.00	25.00
3 DVD Players Location: 1185 Spruce Street, Pocatello ID	Idaho Code § 11-605(1)(a)	30.00	30.00
2 vacuum cleaners Location: 1185 Spruce Street, Pocatello ID	Idaho Code § 11-605(1)(a)	20.00	20.00
<u>Books, Pictures and Other Art Objects; Collectibles</u>			
Books Location: 1185 Spruce Street, Pocatello ID	Idaho Code § 11-605(1)(b)	20.00	20.00
Pictures Location: 1185 Spruce Street, Pocatello ID	Idaho Code § 11-605(1)(b)	60.00	60.00
CD's, DVD's, videos Location: 1185 Spruce Street, Pocatello ID	Idaho Code § 11-605(1)(b)	110.00	110.00
Knick Knacks Location: 1185 Spruce Street, Pocatello ID	Idaho Code § 11-605(1)(b)	20.00	20.00
<u>Wearing Apparel</u>			
Men's Clothing Location: 1185 Spruce Street, Pocatello ID	Idaho Code § 11-605(1)(b)	200.00	200.00
Women's Clothing Location: 1185 Spruce Street, Pocatello ID	Idaho Code § 11-605(1)(b)	300.00	300.00
Girls Clothing Location: 1185 Spruce Street, Pocatello ID	Idaho Code § 11-605(1)(b)	200.00	200.00
Boys Clothing Location: 1185 Spruce Street, Pocatello ID	Idaho Code § 11-605(1)(b)	200.00	200.00
<u>Furs and Jewelry</u>			
2 Wedding Rings Location: 1185 Spruce Street, Pocatello ID	Idaho Code § 11-605(2)	500.00	500.00
Costume Jewelry Location: 1185 Spruce Street, Pocatello ID	Idaho Code § 11-605(2)	40.00	40.00
<u>Firearms and Sports, Photographic and Other Hobby Equipment</u>			
Ruger 1022 Cal. Rifle Location: 1185 Spruce Street, Pocatello ID	Idaho Code § 11-605(7)	50.00	50.00
Ruger Security Six 357 Pistol Location: 1185 Spruce Street, Pocatello ID	Idaho Code § 11-605(10)	125.00	125.00
50 Cal. Muzzle Loader Location: 1185 Spruce Street, Pocatello ID	Idaho Code § 11-605(10)	20.00	20.00

Form B6C
(10/05)

In re **Brian K. Hawk,
Mary Ellen Hawk**

Case No. _____

Debtors

SCHEDULE C. PROPERTY CLAIMED AS EXEMPT
(Continuation Sheet)

Description of Property	Specify Law Providing Each Exemption	Value of C Claimed Exemption	Current Value of Property Without Deducting Exemption
Eastman Bow Location: 1185 Spruce Street, Pocatello ID	Idaho Code § 11-605(10)	25.00	25.00
Set of Golf Clubs Location: 1185 Spruce Street, Pocatello ID	Idaho Code § 11-605(1)(a)	35.00	35.00
2 Cameras Location: 1185 Spruce Street, Pocatello ID	Idaho Code § 11-605(1)(a)	40.00	40.00
<u>Automobiles, Trucks, Trailers, and Other Vehicles</u> 1988 Jeep Wrangler Location: 1185 Spruce Street, Pocatello ID	Idaho Code § 11-605(3)	1,475.00	1,475.00
1988 Ford Bronco Location: 1185 Spruce Street, Pocatello ID	Idaho Code § 11-605(3)	785.00	785.00
<u>Office Equipment, Furnishings and Supplies</u> Desk Location: 1185 Spruce Street, Pocatello ID	Idaho Code § 11-605(1)(a)	15.00	15.00
Fax Machine Location: 1185 Spruce Street, Pocatello ID	Idaho Code § 11-605(1)(a)	20.00	20.00

Total: **105,820.00** **112,670.00**

Sheet 3 of 3 continuation sheets attached to the Schedule of Property Claimed as Exempt

Official Form 6D (10/06)

In re **Brian K. Hawk,
Mary Ellen Hawk**

Case No. _____

Debtors

SCHEDULE D. CREDITORS HOLDING SECURED CLAIMS

State the name, mailing address, including zip code, and last four digits of any account number of all entities holding claims secured by property of the debtor as of the date of filing of the petition. The complete account number of any account the debtor has with the creditor is useful to the trustee and the creditor and may be provided if the debtor chooses to do so. List creditors holding all types of secured interests such as judgment liens, garnishments, statutory liens, mortgages, deeds of trust, and other security interests.

List creditors in alphabetical order to the extent practicable. If a minor child is a creditor, indicate that by stating "a minor child" and do not disclose the child's name. See 11 U.S.C. § 112. If "a minor child" is stated, also include the name, address, and legal relationship to the minor child of a person described in Fed. R. Bankr. P. 1007(m). If all secured creditors will not fit on this page, use the continuation sheet provided.

If any entity other than a spouse in a joint case may be jointly liable on a claim, place an "X" in the column labeled "Codebtor", include the entity on the appropriate schedule of creditors, and complete Schedule H - Codebtors. If a joint petition is filed, state whether the husband, wife, both of them, or the marital community may be liable on each claim by placing an "H", "W", "J", or "C" in the column labeled "Husband, Wife, Joint, or Community".

If the claim is contingent, place an "X" in the column labeled "Contingent". If the claim is unliquidated, place an "X" in the column labeled "Unliquidated". If the claim is disputed, place an "X" in the column labeled "Disputed". (You may need to place an "X" in more than one of these three columns.)

Total the columns labeled "Amount of Claim Without Deducting Value of Collateral" and "Unsecured Portion, if Any" in the boxes labeled "Total(s)" on the last sheet of the completed schedule. Report the total from the column labeled "Amount of Claim" also on the Summary of Schedules and, if the debtor is an individual with primarily consumer debts, report the total from the column labeled "Unsecured Portion" on the Statistical Summary of Certain Liabilities and Related Data.

☐ Check this box if debtor has no creditors holding secured claims to report on this Schedule D.

CREDITOR'S NAME AND MAILING ADDRESS INCLUDING ZIP CODE, AND ACCOUNT NUMBER (If joint, include "and" and "jointly.")	C O D E D E B T O R	H U S B A N D W I F E J O I N T C O M M U N I T Y	DATE CLAIM WAS INCURRED, NATURE OF LIEN, AND DESCRIPTION AND VALUE OF PROPERTY SUBJECT TO LIEN	C O N T I N G E N T	U N L I Q U I D A T E D	D I S P U T E D	AMOUNT OF CLAIM WITHOUT DEDUCTING VALUE OF COLLATERAL	UNSECURED PORTION, IF ANY
Account No. [REDACTED] ABN AMRO Mortgage 8201 Innovation Chicago, IL 60682-0082		C	04-14-04 Mortgage Location: 1185 Spruce Street, Pocatello ID Value \$ 107,000.00				108,184.67	1,184.67
Account No. [REDACTED] ISU Federal Credit Union Campus Box 8029 Pocatello, ID 83209-8029		C	2001 Purchase Money Security 1999 Chrysler LHS Location: 1185 Spruce Street, Pocatello ID Value \$ 3,935.00				5,742.00	1,807.00
Account No. [REDACTED]								
Account No. [REDACTED]								
Subtotal (Total of this page)							113,926.67	2,991.67
Total (Report on Summary of Schedules)							113,926.67	2,991.67

0 continuation sheets attached

In re **Brian K. Hawk,
Mary Ellen Hawk**

Case No. _____

Debtors

SCHEDULE E. CREDITORS HOLDING UNSECURED PRIORITY CLAIMS

A complete list of claims entitled to priority, listed separately by type of priority, is to be set forth on the sheets provided. Only holders of unsecured claims entitled to priority should be listed in this schedule. In the boxes provided on the attached sheets, state the name, mailing address, including zip code, and last four digits of the account number, if any, of all entities holding priority claims against the debtor or the property of the debtor, as of the date of the filing of the petition. Use a separate continuation sheet for each type of priority and label each with the type of priority.

The complete account number of any account the debtor has with the creditor is useful to the trustee and the creditor and may be provided if the debtor chooses to do so. If a minor child is a creditor, indicate that by stating "a minor child" and do not disclose the child's name. See 11 U.S.C. § 112. If "a minor child" is stated, also include the name, address, and legal relationship to the minor child of a person described in Fed. R. Bankr. P. 1007(m).

If any entity other than a spouse in a joint case may be jointly liable on a claim, place an "X" in the column labeled "Codebtor," include the entity on the appropriate schedule of creditors, and complete Schedule H-Codebtors. If a joint petition is filed, state whether the husband, wife, both of them, or the marital community may be liable on each claim by placing an "H," "W," "J," or "C" in the column labeled "Husband, Wife, Joint, or Community." If the claim is contingent, place an "X" in the column labeled "Contingent." If the claim is unliquidated, place an "X" in the column labeled "Unliquidated." If the claim is disputed, place an "X" in the column labeled "Disputed." (You may need to place an "X" in more than one of these three columns.)

Report the total of claims listed on each sheet in the box labeled "Subtotals" on each sheet. Report the total of all claims listed on this Schedule E in the box labeled "Total" on the last sheet of the completed schedule. Report this total also on the Summary of Schedules.

Report the total of amounts entitled to priority listed on each sheet in the box labeled "Subtotals" on each sheet. Report the total of all amounts entitled to priority listed on this Schedule E in the box labeled "Totals" on the last sheet of the completed schedule. Individual debtors with primarily consumer debts who file a case under chapter 7 or 13 report this total also on the Statistical Summary of Certain Liabilities and Related Data.

Report the total of amounts not entitled to priority listed on each sheet in the box labeled "Subtotals" on each sheet. Report the total of all amounts not entitled to priority listed on this Schedule E in the box labeled "Totals" on the last sheet of the completed schedule. Individual debtors with primarily consumer debts who file a case under chapter 7 report this total also on the Statistical Summary of Certain Liabilities and Related Data.

☒ Check this box if debtor has no creditors holding unsecured priority claims to report on this Schedule E.

TYPES OF PRIORITY CLAIMS (Check the appropriate box(es) below if claims in that category are listed on the attached sheets)

☐ **Domestic support obligations**

Claims for domestic support that are owed to or recoverable by a spouse, former spouse, or child of the debtor, or the parent, legal guardian, or responsible relative of such a child, or a governmental unit to whom such a domestic support claim has been assigned to the extent provided in 11 U.S.C. § 507(a)(1).

☐ **Extensions of credit in an involuntary case**

Claims arising in the ordinary course of the debtor's business or financial affairs after the commencement of the case but before the earlier of the appointment of a trust or the order for relief. 11 U.S.C. § 507(a)(3).

☐ **Wages, salaries, and commissions**

Wages, salaries, and commissions, including vacation, severance, and sick leave pay owing to employees and commissions owing to qualifying independent sales representatives up to \$10,000* per person earned within 180 days immediately preceding the filing of the original petition, or the cessation of business, whichever occurred first, to the extent provided in 11 U.S.C. § 507(a)(4).

☐ **Contributions to employee benefit plans**

Money owed to employee benefit plans for services rendered within 180 days immediately preceding the filing of the original petition, or the cessation of business, whichever occurred first, to the extent provided in 11 U.S.C. § 507(a)(5).

☐ **Certain farmers and fishermen**

Claims of certain farmers and fishermen, up to \$4,925* per farmer or fisherman, against the debtor, as provided in 11 U.S.C. § 507(a)(6).

☐ **Deposits by individuals**

Claims of individuals up to \$2,225* for deposits for the purchase, lease, or rental of property or services for personal, family, or household use, that were not delivered provided. 11 U.S.C. § 507(a)(7).

☐ **Taxes and certain other debts owed to governmental units**

Taxes, customs duties, and penalties owing to federal, state, and local governmental units as set forth in 11 U.S.C. § 507(a)(8).

☐ **Commitments to maintain the capital of an insured depository institution**

Claims based on commitments to the FDIC, RTC, Director of the Office of Thrift Supervision, Comptroller of the Currency, or Board of Governors of the Federal Reserve System, or their predecessors or successors, to maintain the capital of an insured depository institution. 11 U.S.C. § 507(a)(9).

☐ **Claims for death or personal injury while debtor was intoxicated**

Claims for death or personal injury resulting from the operation of a motor vehicle or vessel while the debtor was intoxicated from using alcohol, a drug, or another substance. 11 U.S.C. § 507(a)(10).

* Amounts are subject to adjustment on April 1, 2007, and every three years thereafter with respect to cases commenced on or after the date of adjustment.

Official Form 6F (10/06)

In re **Brian K. Hawk,
Mary Ellen Hawk**

Case No. _____

Debtors

SCHEDULE F. CREDITORS HOLDING UNSECURED NONPRIORITY CLAIMS

State the name, mailing address, including zip code, and last four digits of any account number, of all entities holding unsecured claims without priority against the debtor or the property of the debtor, as of the date of filing of the petition. The complete account number of any account the debtor has with the creditor is useful to the trustee and the creditor and may be provided if the debtor chooses to do so. If a minor child is a creditor, indicate that by stating "a minor child" and do not disclose the child's name. See 11 U.S.C. § 112. If "a minor child" is stated, also include the name, address, and legal relationship to the minor child of a person described in Fed. R. Bankr. P. 1007(m). Do not include claims listed in Schedules D and E. If all creditors will not fit on this page, use the continuation sheet provided.

If any entity other than a spouse in a joint case may be jointly liable on a claim, place an "X" in the column labeled "Codebtor," include the entity on the appropriate schedule of creditors, and complete Schedule H - Codebtors. If a joint petition is filed, state whether the husband, wife, both of them, or the marital community may be liable on each claim by placing an "H," "W," "J," or "C" in the column labeled "Husband, Wife, Joint, or Community."

If the claim is contingent, place an "X" in the column labeled "Contingent." If the claim is unliquidated, place an "X" in the column labeled "Unliquidated." If the claim is disputed, place an "X" in the column labeled "Disputed." (You may need to place an "X" in more than one of these three columns.)

Report the total of all claims listed on this schedule in the box labeled "Total" on the last sheet of the completed schedule. Report this total also on the Summary of Schedules and, if the debtor is an individual with primarily consumer debts filing a case under chapter 7, report this total also on the Statistical Summary of Certain Liabilities and Related Data.

☐ Check this box if debtor has no creditors holding unsecured claims to report on this Schedule F.

CREDITOR'S NAME, AND MAILING ADDRESS INCLUDING ZIP CODE, AND ACCOUNT NUMBER (See instructions above.)	C O D E D E B T O R	H U S B A N D W I F E J O I N T O R C O M M U N I T Y	DATE CLAIM WAS INCURRED AND CONSIDERATION FOR CLAIM. IF CLAIM IS SUBJECT TO SETOFF, SO STATE.	C O N T I N G E N T	U N L I Q U I D A T E D	D I S P U T E D	AMOUNT OF CLAIM
Account No [REDACTED] Advanced PO Box 27461 Salt Lake City, UT 84127-6472		C	Medical expenses				68.41
Account No [REDACTED] Aspen Physical Therapy PO Box 6027 Pocatello, ID 83205-6027		C	Medical expenses				357.58
Account No [REDACTED] Bingham Community Health 98 Poplar Blackfoot, ID 83221		C	Medical expenses				8.80
Account No [REDACTED] Bingham Memorial Hospital 98 Poplar Street Blackfoot, ID 83221		C	01/06 Medical expenses				1,249.90
Subtotal (Total of this page)							1,684.69

5 continuation sheets attached

Official Form 6F (10/06) - Cont.

In re **Brian K. Hawk,
Mary Ellen Hawk**

Case No. _____

Debtors
SCHEDULE F. CREDITORS HOLDING UNSECURED NONPRIORITY CLAIMS
(Continuation Sheet)

CREDITOR'S NAME, AND MAILING ADDRESS INCLUDING ZIP CODE, AND ACCOUNT NUMBER (See instructions above.)	C O D E B I T O R	H U S B A N D, W I F E, J O I N T, O R C O M M U N I T Y	DATE CLAIM WAS INCURRED AND CONSIDERATION FOR CLAIM. IF CLAIM IS SUBJECT TO SETOFF, SO STATE.	C O N T I N G E N T	U N L I Q U I D A T E D	D I S P U T E D	AMOUNT OF CLAIM
Account No. [REDACTED] Blackfoot Anesthesia PO Box 829 Blackfoot, ID 83221	C		Medical expenses				148.50
Account No. [REDACTED] Blackfoot Anesthesia PO Box 829 Blackfoot, ID 83221	C		Medical expenses				148.40
Account No. [REDACTED] Capital One P.O. Box 30285 Salt Lake City, UT 84130-0285	C		2002 Credit card purchases				2,412.39
Account No. [REDACTED] Columbia House Video SKO Brenner American PO Box 230 Farmingdale, NY 11735-0230	C		Miscellaneous				103.71
Account No. [REDACTED] Darryl Bybee, DDS 1169 Call Creek Place Pocatello, ID 83201	C		2006 Dental Expenses				4,631.87
Sheet no. 1 of 5 sheets attached to Schedule of Creditors Holding Unsecured Nonpriority Claims			Subtotal (Total of this page)			7,444.87	

Official Form 6F (10/06) - Cont.

In re **Brian K. Hawk,
Mary Ellen Hawk**

Case No. _____

Debtors
SCHEDULE F. CREDITORS HOLDING UNSECURED NONPRIORITY CLAIMS
(Continuation Sheet)

CREDITOR'S NAME, AND MAILING ADDRESS INCLUDING ZIP CODE, AND ACCOUNT NUMBER (See instructions above.)	C O D E D E B I T O R	H U S B A N D, W I F E, J O I N T, O R C O M M U N I T Y	DATE CLAIM WAS INCURRED AND CONSIDERATION FOR CLAIM. IF CLAIM IS SUBJECT TO SETOFF, SO STATE.	C O N T I N G E N T	U N L I Q U I D A T E D	D I S P U T E D	AMOUNT OF CLAIM
Account No. [REDACTED] Dr. Glenn Moradian 10567 Sawmill Pkwy Powell, OH 43065		C	Medical expenses				68.41
Account No. [REDACTED] Evan G. Black, M.D. PO Box 95970 South Jordan, UT 84095-0970		C	Medical expenses				48.37
Account No. [REDACTED] Facial Oral Surgery PO Box 6033 Pocatello, ID 83205-6033		C	Medical expenses				423.26
Account No. [REDACTED] Facial Oral [REDACTED] PO Box 6033 Pocatello, ID 83205-6033		C	Medical expenses				8,488.74
Account No. [REDACTED] Home Depot PO Box 6028 The Lakes, NV 88901-6028		C	2004 Credit card purchases				866.57
<div> <div>Sheet no. <u>2</u> of <u>5</u> sheets attached to Schedule of Creditors Holding Unsecured Nonpriority Claims</div> <div> Subtotal (Total of this page) </div> </div>							9,895.35

Official Form 6F (10/06) - Cont.

In re **Brian K. Hawk,
Mary Ellen Hawk**

Case No. _____

Debtors
SCHEDULE F. CREDITORS HOLDING UNSECURED NONPRIORITY CLAIMS
(Continuation Sheet)

CREDITOR'S NAME, AND MAILING ADDRESS INCLUDING ZIP CODE, AND ACCOUNT NUMBER		C O D E B O R	Husband, Wife, Joint, or Community	DATE CLAIM WAS INCURRED AND CONSIDERATION FOR CLAIM. IF CLAIM IS SUBJECT TO SETOFF, SO STATE.	C O N T I N G E N T	U N L I Q U I D A T E D	D I S P U T E D	AMOUNT OF CLAIM
Account No.			H W J C					
<div>Account No. [REDACTED]</div> <div>Home Depot PO Box 6028 The Lakes, NV 88901-6028</div>		C		2004 Credit card purchases				1,449.04
<div>Account No. [REDACTED]</div> <div>HSBC Card Services PO Box 60102 City Of Industry, CA 91716-0102</div>		C		2002 Credit card purchases				741.50
<div>Account No. [REDACTED]</div> <div>Idaho Spine Ctr 131 N. Oak Blackfoot, ID 83221</div>		C		Medical expenses				413.05
<div>Account No. [REDACTED]</div> <div>Intermountain Gas PO Box 64 Boise, ID 83732</div>		C		Utilities				87.70
<div>Account No. [REDACTED]</div> <div>Intermountain Med Clinic 1951 Bench Road Ste B Pocatello, ID 83201</div>		C		Medical expenses				291.30
Subtotal (Total of this page)								2,982.59

Sheet no. 3 of 5 sheets attached to Schedule of
Creditors Holding Unsecured Nonpriority Claims

Sheet no. 3 of 5 sheets attached to Schedule of
Creditors Holding Unsecured Nonpriority Claims

Official Form 6F (10/06) - Cont.

In re **Brian K. Hawk,
Mary Ellen Hawk**

Case No. _____

Debtors
SCHEDULE F. CREDITORS HOLDING UNSECURED NONPRIORITY CLAIMS
(Continuation Sheet)

CREDITOR'S NAME, AND MAILING ADDRESS INCLUDING ZIP CODE, AND ACCOUNT NUMBER (See instructions above.)	C O D E D E B I T O R	H W J C	Husband, Wife, Joint, or Community	DATE CLAIM WAS INCURRED AND CONSIDERATION FOR CLAIM. IF CLAIM IS SUBJECT TO SETOFF, SO STATE.	C O N T I N G E N T	U N L I Q U I D A T E D	D I S P U T E D	AMOUNT OF CLAIM
Account No. [REDACTED] Mastercard PO Box 9001074 Louisville, KY 40291-1074		C		1996 Credit card purchases				18,405.95
Account No. [REDACTED] MBNA America PO Box 15102 Wilmington, DE 19886-5102		C		04/05 Personal Loan				33,049.00
Account [REDACTED] Mr. McMinn and Dr. Summers 1133 Call Creek Place Pocatello, ID 83201		C		2006 Dental Expenses				1,133.33
Account No. [REDACTED] Portneuf Medical Center 651 Memorial Drive Pocatello, ID 83201		C		Medical expenses Ref #490237				37.06
Account No. [REDACTED] Portneuf Medical Center 651 Memorial Drive Pocatello, ID 83201		C		Medical expenses				233.50
<div>Sheet no. <u>4</u> of <u>5</u> sheets attached to Schedule of Creditors Holding Unsecured Nonpriority Claims</div> <div style="text-align: right;">Subtotal (Total of this page)</div>								52,858.84

Official Form 6F (10/06) - Cont.

In re **Brian K. Hawk,
Mary Ellen Hawk**

Case No. _____

Debtors
SCHEDULE F. CREDITORS HOLDING UNSECURED NONPRIORITY CLAIMS
(Continuation Sheet)

CREDITOR'S NAME, AND MAILING ADDRESS INCLUDING ZIP CODE, AND ACCOUNT NUMBER (See instructions above.)	C O D E D E B I T O R	H W J C	Husband, Wife, Joint, or Community	C O N T I N G E N T	U N L I Q U I D A T E D	D I S P U T E D	AMOUNT OF CLAIM
			DATE CLAIM WAS INCURRED AND CONSIDERATION FOR CLAIM. IF CLAIM IS SUBJECT TO SETOFF, SO STATE.				
Account No. [REDACTED] Portneuf Valley Medical Center PO Box 4983 Pocatello, ID 83205		C	Medical expenses				107.49
Account No. [REDACTED] Teton Open MRI 2060 W. Woodruff Idaho Falls, ID 83404-6370		C	Medical expenses				390.00
Account No. [REDACTED] VISA PO Box 923148 Norcross, GA 30010-3148		C	2001 Credit card purchases				6,078.23
Account No. [REDACTED]							
Account No. [REDACTED]							

Sheet no. 5 of 5 sheets attached to Schedule of
Creditors Holding Unsecured Nonpriority Claims

Subtotal (Total of this page)	6,575.72
Total (Report on Summary of Schedules)	81,442.06

Form B6G
(10/05)

In re **Brian K. Hawk,
Mary Ellen Hawk**

Case No. _____

Debtors

SCHEDULE G. EXECUTORY CONTRACTS AND UNEXPIRED LEASES

Describe all executory contracts of any nature and all unexpired leases of real or personal property. Include any timeshare interests. State nature of debtor's interest in contract, i.e., "Purchaser", "Agent", etc. State whether debtor is the lessor or lessee of a lease. Provide the names and complete mailing addresses of all other parties to each lease or contract described. If a minor child is a party to one of the leases or contracts, indicate that by stating "a minor child" and do not disclose the child's name. See 11 U.S.C. § 112; Fed.R. Bankr. P. 1007(m).

☐ Check this box if debtor has no executory contracts or unexpired leases.

Name and Mailing Address, Including Zip Code,
of Other Parties to Lease or Contract

Description of Contract or Lease and Nature of Debtor's Interest.
State whether lease is for nonresidential real property.
State contract number of any government contract.

0 continuation sheets attached to Schedule of Executory Contracts and Unexpired Leases

Form B6H
(10/05)

In re **Brian K. Hawk,
Mary Ellen Hawk**

Case No. _____

Debtors

SCHEDULE H. CODEBTORS

Provide the information requested concerning any person or entity, other than a spouse in a joint case, that is also liable on any debts listed by debtor in the schedules of creditors. Include all guarantors and co-signers. If the debtor resides or resided in a community property state, commonwealth, or territory (including Alaska, Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Puerto Rico, Texas, Washington, or Wisconsin) within the eight year period immediately preceding the commencement of the case, identify the name of the debtor's spouse and of any former spouse who resides or resided with the debtor in the community property state, commonwealth, or territory. Include all names used by the nondebtor spouse during the eight years immediately preceding the commencement of this case. If a minor child is a codebtor or a creditor, indicate that by stating "a minor child" and do not disclose the child's name. See 11 U.S.C. § 112; Fed. Bankr. P. 1007(m).

☒ Check this box if debtor has no codebtors.

NAME AND ADDRESS OF CODEBTOR	NAME AND ADDRESS OF CREDITOR
------------------------------	------------------------------

0 continuation sheets attached to Schedule of Codebtors

Official Form 61 (10/06)

In re **Brian K. Hawk**
Mary Ellen Hawk

Debtor(s)

Case No.

SCHEDULE I. CURRENT INCOME OF INDIVIDUAL DEBTOR(S)

The column labeled "Spouse" must be completed in all cases filed by joint debtors and by every married debtor, whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed. Do not state the name of any minor child.

Debtor's Marital Status:		DEPENDENTS OF DEBTOR AND SPOUSE	
Married	RELATIONSHIP(S):	AGE(S):	
	Stepson	16	
	Daughter	8	
Employment:	DEBTOR	SPOUSE	
Occupation	Instructor	Graphic Designer	
Name of Employer	Idaho State University	I.O.G.C.	
How long employed	16 years	5 years	
Address of Employer	Graphic Arts Program - ISU Campus Pocatello, ID 83209	1975 S. 5th Pocatello, ID 83201	

INCOME: (Estimate of average or projected monthly income at time case filed)

1. Monthly gross wages, salary, and commissions (Prorate if not paid monthly)
2. Estimate monthly overtime

	DEBTOR	SPOUSE
	\$ 3,399.54	\$ 2,431.86
	\$ 0.00	\$ 0.00
	\$ 3,399.54	\$ 2,431.86

3. SUBTOTAL

4. LESS PAYROLL DEDUCTIONS

- a. Payroll taxes and social security
- b. Insurance
- c. Union dues
- d. Other (Specify) See Detailed Income Attachment

	\$ 675.72	\$ 364.00
	\$ 0.00	\$ 169.00
	\$ 0.00	\$ 0.00
	\$ 211.79	\$ 137.27

5. SUBTOTAL OF PAYROLL DEDUCTIONS

	\$ 887.51	\$ 670.27
--	------------------	------------------

6. TOTAL NET MONTHLY TAKE HOME PAY

	\$ 2,512.03	\$ 1,761.59
--	--------------------	--------------------

7. Regular income from operation of business or profession or farm (Attach detailed statement)
8. Income from real property
9. Interest and dividends
10. Alimony, maintenance or support payments payable to the debtor for the debtor's use or that of dependents listed above
11. Social security or government assistance

	\$ 0.00	\$ 0.00
	\$ 0.00	\$ 0.00
	\$ 0.00	\$ 0.00
	\$ 0.00	\$ 0.00
	\$ 0.00	\$ 0.00
	\$ 0.00	\$ 0.00

12. Pension or retirement income

13. Other monthly income

(Specify): Hawk Enterprises
Child Support

	\$ 100.50	\$ 0.00
	\$ 0.00	\$ 416.00

14. SUBTOTAL OF LINES 7 THROUGH 13

	\$ 100.50	\$ 416.00
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15. AVERAGE MONTHLY INCOME (Add amounts shown on lines 6 and 14)

	\$ 2,612.53	\$ 2,177.59
--	--------------------	--------------------

16. COMBINED AVERAGE MONTHLY INCOME: (Combine column totals from line 15; if there is only one debtor repeat total reported on line 15)

	\$ 4,790.12
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(Report also on Summary of Schedules and, if applicable, on Statistical Summary of Certain Liabilities and Related Data)

17. Describe any increase or decrease in income reasonably anticipated to occur within the year following the filing of this document:

Official Form 61 (10/06)

In re Brian K. Hawk
Mary Ellen Hawk

Debtor(s)

Case No. _____

SCHEDULE I. CURRENT INCOME OF INDIVIDUAL DEBTOR(S)
Detailed Income Attachment

Other Payroll Deductions:

<u>Purchases from work</u>	\$ <u>0.00</u>	\$ <u>40.00</u>
<u>PERSI Retirement Plan</u>	\$ <u>211.79</u>	\$ <u>0.00</u>
<u>IRA</u>	\$ <u>0.00</u>	\$ <u>97.27</u>
<u>Total Other Payroll Deductions</u>	\$ <u>211.79</u>	\$ <u>137.27</u>

Official Form 6J (10/06)

In re **Brian K. Hawk**
Mary Ellen Hawk

Debtor(s)

Case No. _____

SCHEDULE J. CURRENT EXPENDITURES OF INDIVIDUAL DEBTOR(S)

Complete this schedule by estimating the average or projected monthly expenses of the debtor and the debtor's family at time case filed. Prorate any payments made bi-weekly, quarterly, semi-annually, or annually to show monthly rate.

☐ Check this box if a joint petition is filed and debtor's spouse maintains a separate household. Complete a separate schedule of expenditures labeled "Spouse."

1. Rent or home mortgage payment (include lot rented for mobile home)	\$	<u>928.43</u>
a. Are real estate taxes included?	Yes <u>X</u>	No _____
b. Is property insurance included?	Yes <u>X</u>	No _____
2. Utilities:		
a. Electricity and heating fuel	\$	<u>219.00</u>
b. Water and sewer	\$	<u>127.31</u>
c. Telephone	\$	<u>130.00</u>
d. Other <u>See Detailed Expense Attachment</u>	\$	<u>117.61</u>
3. Home maintenance (repairs and upkeep)	\$	<u>69.95</u>
4. Food	\$	<u>620.00</u>
5. Clothing	\$	<u>100.00</u>
6. Laundry and dry cleaning	\$	<u>25.00</u>
7. Medical and dental expenses	\$	<u>500.00</u>
8. Transportation (not including car payments)	\$	<u>420.00</u>
9. Recreation, clubs and entertainment, newspapers, magazines, etc.	\$	<u>200.00</u>
10. Charitable contributions	\$	<u>0.00</u>
11. Insurance (not deducted from wages or included in home mortgage payments)		
a. Homeowner's or renter's	\$	<u>0.00</u>
b. Life	\$	<u>0.00</u>
c. Health	\$	<u>165.25</u>
d. Auto	\$	<u>110.00</u>
e. Other _____	\$	<u>0.00</u>
12. Taxes (not deducted from wages or included in home mortgage payments)		
(Specify) <u>Taxes not deducted from disability check</u>	\$	<u>506.00</u>
13. Installment payments: (In chapter 11, 12, and 13 cases, do not list payments to be included in the plan)		
a. Auto	\$	<u>310.00</u>
b. Other _____	\$	<u>0.00</u>
c. Other _____	\$	<u>0.00</u>
d. Other _____	\$	<u>0.00</u>
14. Alimony, maintenance, and support paid to others	\$	<u>0.00</u>
15. Payments for support of additional dependents not living at your home	\$	<u>0.00</u>
16. Regular expenses from operation of business, profession, or farm (attach detailed statement)	\$	<u>0.00</u>
17. Other <u>Retirement deduction-joint Debtor</u>	\$	<u>97.27</u>
Other _____	\$	<u>0.00</u>

18. AVERAGE MONTHLY EXPENSES (Total lines 1-17. Report also on Summary of Schedules and, if applicable, on the Statistical Summary of Certain Liabilities and Related Data.)

\$ 4,645.82

19. Describe any increase or decrease in expenditures reasonably anticipated to occur within the year following the filing of this document:

20. STATEMENT OF MONTHLY NET INCOME

a. Average monthly income from Line 15 of Schedule I	\$	<u>4,790.12</u>
b. Average monthly expenses from Line 18 above	\$	<u>4,645.82</u>
c. Monthly net income (a. minus b.)	\$	<u>144.30</u>

Official Form 6J (10/06)

In re **Brian K. Hawk**
Mary Ellen Hawk

Debtor(s)

Case No. _____

SCHEDULE J. CURRENT EXPENDITURES OF INDIVIDUAL DEBTOR(S)
Detailed Expense Attachment

Other Utility Expenditures:

<u>Soft Water Service</u>	\$ <u>11.61</u>
<u>Wildwood Mini Storage</u>	\$ <u>106.00</u>
<u>Total Other Utility Expenditures</u>	\$ <u>117.61</u>

Official Form 6-Declaration. (10/06)

**United States Bankruptcy Court
District of Idaho**

In re Brian K. Hawk
Mary Ellen Hawk

Debtor(s)

Case No.
Chapter

7

DECLARATION CONCERNING DEBTOR'S SCHEDULES

DECLARATION UNDER PENALTY OF PERJURY BY INDIVIDUAL DEBTOR

I declare under penalty of perjury that I have read the foregoing summary and schedules, consisting of 27 sheets *[total shown on summary page plus 2]*, and that they are true and correct to the best of my knowledge, information, and belief.

Date October 5, 2006

Signature /s/ Brian K. Hawk
Brian K. Hawk
Debtor

Date October 5, 2006

Signature /s/ Mary Ellen Hawk
Mary Ellen Hawk
Joint Debtor

Penalty for making a false statement or concealing property: Fine of up to \$500,000 or imprisonment for up to 5 years or both.
18 U.S.C. §§ 152 and 3571.

Official Form 7
(10/05)

United States Bankruptcy Court
District of Idaho

In re **Brian K. Hawk
Mary Ellen Hawk**

Debtor(s)

Case No.

Chapter

7

STATEMENT OF FINANCIAL AFFAIRS

This statement is to be completed by every debtor. Spouses filing a joint petition may file a single statement on which the information for both spouses is combined. If the case is filed under chapter 12 or chapter 13, a married debtor must furnish information for both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed. An individual debtor engaged in business as a sole proprietor, partner, family farmer, or self-employed professional, should provide the information requested on this statement concerning all such activities as well as the individual's personal affairs. Do not include the name or address of a minor child in this statement. Indicate payments, transfers and the like to minor children by stating "a minor child." See 11 U.S.C. § 112; Fed. R. Bankr. P. 1007(m).

Questions 1 - 18 are to be completed by all debtors. Debtors that are or have been in business, as defined below, also must complete Questions 19 - 25. **If the answer to an applicable question is "None," mark the box labeled "None."** If additional space is needed for the answer to any question, use and attach a separate sheet properly identified with the case name, case number (if known), and the number of the question.

DEFINITIONS

"In business." A debtor is "in business" for the purpose of this form if the debtor is a corporation or partnership. An individual debtor is "in business" for the purpose of this form if the debtor is or has been, within six years immediately preceding the filing of this bankruptcy case, any of the following: an officer, director, managing executive, or owner of 5 percent or more of the voting or equity securities of a corporation; a partner, other than a limited partner, of a partnership; a sole proprietor or self-employed full-time or part-time. An individual debtor also may be "in business" for the purpose of this form if the debtor engages in a trade, business, or other activity, other than as an employee, to supplement income from the debtor's primary employment.

"Insider." The term "insider" includes but is not limited to: relatives of the debtor; general partners of the debtor and their relatives; corporations of which the debtor is an officer, director, or person in control; officers, directors, and any owner of 5 percent or more of the voting or equity securities of a corporate debtor and their relatives; affiliates of the debtor and insiders of such affiliates; any managing agent of the debtor. 11 U.S.C. § 101.

1. Income from employment or operation of business

None ☐ State the gross amount of income the debtor has received from employment, trade, or profession, or from operation of the debtor's business, including part-time activities either as an employee or in independent trade or business, from the beginning of this calendar year to the date this case was commenced. State also the gross amounts received during the **two years** immediately preceding this calendar year. (A debtor that maintains, or has maintained, financial records on the basis of a fiscal rather than a calendar year may report fiscal year income. Identify the beginning and ending dates of the debtor's fiscal year.) If a joint petition is filed, state income for each spouse separately. (Married debtors filing under chapter 12 or chapter 13 must state income of both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

AMOUNT	SOURCE
\$804.00	Husband - Hawk Enterprises - YTD
\$4,674.00	Husband - Hawk Enterprises - 2005
\$19,828.89	Wife - YTD Wages
\$26,284.83	Wife - 2005 Wages
\$26,193.04	Wife - 2004 Wages
\$5,605.68	Husband - 2005 - Wages
\$50,855.66	Husband - 2004 Wages

2. Income other than from employment or operation of business

None ☐ State the amount of income received by the debtor other than from employment, trade, profession, or operation of the debtor's business during the **two years** immediately preceding the commencement of this case. Give particulars. If a joint petition is filed, state income for each spouse separately. (Married debtors filing under chapter 12 or chapter 13 must state income for each spouse whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

AMOUNT	SOURCE
\$22,234.40	Husband - YTD Long Term Disability
\$25,902.11	Husband - 2005 Long Term Disability

3. Payments to creditors

None ☐ *Complete a. or b., as appropriate, and c.*

a. *Individual or joint debtor(s) with primarily consumer debts.* List all payments on loans, installment purchases of goods or services, and other debts to any creditor made within **90 days** immediately preceding the commencement of this case if the aggregate value of all property that constitutes or is affected by such transfer is not less than \$600. Indicate with an (*) any payments that were made to a creditor on account of a domestic support obligation or as part of an alternative repayment schedule under a plan by an approved nonprofit budgeting and creditor counseling agency. (Married debtors filing under chapter 12 or chapter 13 must include payments by either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF CREDITOR	DATES OF PAYMENTS	AMOUNT PAID	AMOUNT STILL OWING
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None ☐ b. *Debtor whose debts are not primarily consumer debts:* List each payment or other transfer to any creditor made within **90 days** immediately preceding the commencement of the case if the aggregate value of all property that constitutes or is affected by such transfer is not less than \$5,000. (Married debtors filing under chapter 12 or chapter 13 must include payments by either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF CREDITOR	DATES OF PAYMENTS/ TRANSFERS	AMOUNT PAID OR VALUE OF TRANSFERS	AMOUNT STILL OWING
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None ☐ c. *All debtors:* List all payments made within **one year** immediately preceding the commencement of this case to or for the benefit of creditors who are or were insiders. (Married debtors filing under chapter 12 or chapter 13 must include payments by either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF CREDITOR AND RELATIONSHIP TO DEBTOR	DATE OF PAYMENT	AMOUNT PAID	AMOUNT STILL OWING
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4. Suits and administrative proceedings, executions, garnishments and attachments

None ☐ a. List all suits and administrative proceedings to which the debtor is or was a party within **one year** immediately preceding the filing of this bankruptcy case. (Married debtors filing under chapter 12 or chapter 13 must include information concerning either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

CAPTION OF SUIT AND CASE NUMBER	NATURE OF PROCEEDING	COURT OR AGENCY AND LOCATION	STATUS OR DISPOSITION
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None ☐ b. Describe all property that has been attached, garnished or seized under any legal or equitable process within **one year** immediately preceding the commencement of this case. (Married debtors filing under chapter 12 or chapter 13 must include information concerning property of either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF PERSON FOR WHOSE BENEFIT PROPERTY WAS SEIZED	DATE OF SEIZURE	DESCRIPTION AND VALUE OF PROPERTY
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5. Repossessions, foreclosures and returns

None ☐ List all property that has been repossessed by a creditor, sold at a foreclosure sale, transferred through a deed in lieu of foreclosure or returned to the seller, within **one year** immediately preceding the commencement of this case. (Married debtors filing under chapter 12 or chapter 13 must include information concerning property of either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF CREDITOR OR SELLER	DATE OF REPOSSESSION, FORECLOSURE SALE, TRANSFER OR RETURN	DESCRIPTION AND VALUE OF PROPERTY
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6. Assignments and receiverships

None ☐ a. Describe any assignment of property for the benefit of creditors made within **120 days** immediately preceding the commencement of this case. (Married debtors filing under chapter 12 or chapter 13 must include any assignment by either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF ASSIGNEE	DATE OF ASSIGNMENT	TERMS OF ASSIGNMENT OR SETTLEMENT
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None ☐ b. List all property which has been in the hands of a custodian, receiver, or court-appointed official within **one year** immediately preceding the commencement of this case. (Married debtors filing under chapter 12 or chapter 13 must include information concerning property of either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF CUSTODIAN	NAME AND LOCATION OF COURT CASE TITLE & NUMBER	DATE OF ORDER	DESCRIPTION AND VALUE OF PROPERTY
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7. Gifts

None ☐ List all gifts or charitable contributions made within **one year** immediately preceding the commencement of this case except ordinary and usual gifts to family members aggregating less than \$200 in value per individual family member and charitable contributions aggregating less than \$100 per recipient. (Married debtors filing under chapter 12 or chapter 13 must include gifts or contributions by either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF PERSON OR ORGANIZATION	RELATIONSHIP TO DEBTOR, IF ANY	DATE OF GIFT	DESCRIPTION AND VALUE OF GIFT
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8. Losses

None ☐ List all losses from fire, theft, other casualty or gambling within **one year** immediately preceding the commencement of this case **or since the commencement of this case**. (Married debtors filing under chapter 12 or chapter 13 must include losses by either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

DESCRIPTION AND VALUE OF PROPERTY	DESCRIPTION OF CIRCUMSTANCES AND, IF LOSS WAS COVERED IN WHOLE OR IN PART BY INSURANCE, GIVE PARTICULARS	DATE OF LOSS
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9. Payments related to debt counseling or bankruptcy

None ☐ List all payments made or property transferred by or on behalf of the debtor to any persons, including attorneys, for consultation concerning debt consolidation, relief under the bankruptcy law or preparation of the petition in bankruptcy within **one year** immediately preceding the commencement of this case.

NAME AND ADDRESS OF PAYEE	DATE OF PAYMENT, NAME OF PAYOR IF OTHER THAN DEBTOR	AMOUNT OF MONEY OR DESCRIPTION AND VALUE OF PROPERTY
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10. Other transfers

- None ☐ a. List all other property, other than property transferred in the ordinary course of the business or financial affairs of the debtor, transferred either absolutely or as security within **two years** immediately preceding the commencement of this case. (Married debtors filing under chapter 12 or chapter 13 must include transfers by either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF TRANSFEREE, RELATIONSHIP TO DEBTOR	DATE	DESCRIBE PROPERTY TRANSFERRED AND VALUE RECEIVED
Fred Davis 966 Highland Blvd Pocatello, ID 83201 none	4/5/06	Shotgun Village Estates - Lot at 4039 Choctaw Rd Island Park, ID 83429 \$19,519.87

- None ☒ b. List all property transferred by the debtor within **ten years** immediately preceding the commencement of this case to a self-settled trust or similar device of which the debtor is a beneficiary.

NAME OF TRUST OR OTHER DEVICE	DATE(S) OF TRANSFER(S)	AMOUNT OF MONEY OR DESCRIPTION AND VALUE OF PROPERTY OR DEBTOR'S INTEREST IN PROPERTY
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11. Closed financial accounts

- None ☒ List all financial accounts and instruments held in the name of the debtor or for the benefit of the debtor which were closed, sold, or otherwise transferred within **one year** immediately preceding the commencement of this case. Include checking, savings, or other financial accounts, certificates of deposit, or other instruments; shares and share accounts held in banks, credit unions, pension funds, cooperatives, associations, brokerage houses and other financial institutions. (Married debtors filing under chapter 12 or chapter 13 must include information concerning accounts or instruments held by or for either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF INSTITUTION	TYPE OF ACCOUNT, LAST FOUR DIGITS OF ACCOUNT NUMBER, AND AMOUNT OF FINAL BALANCE	AMOUNT AND DATE OF SALE OR CLOSING
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12. Safe deposit boxes

- None ☒ List each safe deposit or other box or depository in which the debtor has or had securities, cash, or other valuables within **one year** immediately preceding the commencement of this case. (Married debtors filing under chapter 12 or chapter 13 must include boxes or depositories of either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF BANK OR OTHER DEPOSITORY	NAMES AND ADDRESSES OF THOSE WITH ACCESS TO BOX OR DEPOSITORY	DESCRIPTION OF CONTENTS	DATE OF TRANSFER OR SURRENDER, IF ANY
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13. Setoffs

- None ☒ List all setoffs made by any creditor, including a bank, against a debt or deposit of the debtor within **90 days** preceding the commencement of this case. (Married debtors filing under chapter 12 or chapter 13 must include information concerning either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF CREDITOR	DATE OF SETOFF	AMOUNT OF SETOFF
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14. Property held for another person

- None ☐ List all property owned by another person that the debtor holds or controls.

NAME AND ADDRESS OF OWNER	DESCRIPTION AND VALUE OF PROPERTY	LOCATION OF PROPERTY
Breanna Hawk 1185 Spruce Street Pocatello, ID 83201	\$140 in savings account	ISU Credit Union

15. Prior address of debtor

- None ☐ If the debtor has moved within **three years** immediately preceding the commencement of this case, list all premises which the debtor occupied during that period and vacated prior to the commencement of this case. If a joint petition is filed, report also any separate address of either spouse.

ADDRESS	NAME USED	DATES OF OCCUPANCY
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16. Spouses and Former Spouses

- None ☐ If the debtor resides or resided in a community property state, commonwealth, or territory (including Alaska, Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Puerto Rico, Texas, Washington, or Wisconsin) within **eight years** immediately preceding the commencement of the case, identify the name of the debtor's spouse and of any former spouse who resides or resided with the debtor in the community property state.

NAME

17. Environmental Information.

For the purpose of this question, the following definitions apply:

"Environmental Law" means any federal, state, or local statute or regulation regulating pollution, contamination, releases of hazardous or toxic substances, wastes or material into the air, land, soil, surface water, groundwater, or other medium, including, but not limited to, statutes or regulations regulating the cleanup of these substances, wastes, or material.

"Site" means any location, facility, or property as defined under any Environmental Law, whether or not presently or formerly owned or operated by the debtor, including, but not limited to, disposal sites.

"Hazardous Material" means anything defined as a hazardous waste, hazardous substance, toxic substance, hazardous material, pollutant, or contaminant or similar term under an Environmental Law

- None ☐ a. List the name and address of every site for which the debtor has received notice in writing by a governmental unit that it may be liable or potentially liable under or in violation of an Environmental Law. Indicate the governmental unit, the date of the notice, and, if known, the Environmental Law:

SITE NAME AND ADDRESS	NAME AND ADDRESS OF GOVERNMENTAL UNIT	DATE OF NOTICE	ENVIRONMENTAL LAW
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- None ☐ b. List the name and address of every site for which the debtor provided notice to a governmental unit of a release of Hazardous Material. Indicate the governmental unit to which the notice was sent and the date of the notice.

SITE NAME AND ADDRESS	NAME AND ADDRESS OF GOVERNMENTAL UNIT	DATE OF NOTICE	ENVIRONMENTAL LAW
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- None ☐ c. List all judicial or administrative proceedings, including settlements or orders, under any Environmental Law with respect to which the debtor is or was a party. Indicate the name and address of the governmental unit that is or was a party to the proceeding, and the docket number.

NAME AND ADDRESS OF GOVERNMENTAL UNIT	DOCKET NUMBER	STATUS OR DISPOSITION
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18. Nature, location and name of business

None

☐

a. If the debtor is an individual, list the names, addresses, taxpayer identification numbers, nature of the businesses, and beginning and ending dates of all businesses in which the debtor was an officer, director, partner, or managing executive of a corporation, partner in a partnership, sole proprietor, or was self-employed in a trade, profession, or other activity either full- or part-time within **six years** immediately preceding the commencement of this case, or in which the debtor owned 5 percent or more of the voting or equity securities within **six years** immediately preceding the commencement of this case.

If the debtor is a partnership, list the names, addresses, taxpayer identification numbers, nature of the businesses, and beginning and ending dates of all businesses in which the debtor was a partner or owned 5 percent or more of the voting or equity securities, within **six years** immediately preceding the commencement of this case.

If the debtor is a corporation, list the names, addresses, taxpayer identification numbers, nature of the businesses, and beginning and ending dates of all businesses in which the debtor was a partner or owned 5 percent or more of the voting or equity securities within **six years** immediately preceding the commencement of this case.

NAME	LAST FOUR DIGITS OF SEC. NO./ COMPLETE EIN OR OTHER TAXPAYER I.D. NO.	ADDRESS	NATURE OF BUSINESS	BEGINNING AND ENDING DATES
Hawk Enterprises	[REDACTED]	1185 Spruce Street Pocatello, ID 83201	Design, Consulting and Sales	2004 to present
Desktop Depot	[REDACTED]	1185 Spruce Street Pocatello, ID 83201	Desktop Publishing	1995 - 2000

None

☐

b. Identify any business listed in response to subdivision a., above, that is "single asset real estate" as defined in 11 U.S.C. § 101.

NAME

ADDRESS

The following questions are to be completed by every debtor that is a corporation or partnership and by any individual debtor who is or has been, within **six years** immediately preceding the commencement of this case, any of the following: an officer, director, managing executive, or owner of more than 5 percent of the voting or equity securities of a corporation; a partner, other than a limited partner, of a partnership, a sole proprietor or self-employed in a trade, profession, or other activity, either full- or part-time.

(An individual or joint debtor should complete this portion of the statement only if the debtor is or has been in business, as defined above, within six years immediately preceding the commencement of this case. A debtor who has not been in business within those six years should go directly to the signature page.)

19. Books, records and financial statements

None

☐

a. List all bookkeepers and accountants who within **two years** immediately preceding the filing of this bankruptcy case kept or supervised the keeping of books of account and records of the debtor.

NAME AND ADDRESS
Kathy's Tax Service
11631 N. Nelson Lane
Pocatello, ID 83202

DATES SERVICES RENDERED
Tax preparation since 1996

None

☐

b. List all firms or individuals who within the **two years** immediately preceding the filing of this bankruptcy case have audited the books of account and records, or prepared a financial statement of the debtor.

NAME

ADDRESS

DATES SERVICES RENDERED

None

☐

c. List all firms or individuals who at the time of the commencement of this case were in possession of the books of account and records of the debtor. If any of the books of account and records are not available, explain.

NAME

ADDRESS

None ☐ d. List all financial institutions, creditors and other parties, including mercantile and trade agencies, to whom a financial statement was issued by the debtor within **two years** immediately preceding the commencement of this case.

NAME AND ADDRESS

DATE ISSUED

20. Inventories

None ☐ a. List the dates of the last two inventories taken of your property, the name of the person who supervised the taking of each inventory, and the dollar amount and basis of each inventory.

DATE OF INVENTORY

INVENTORY SUPERVISOR

DOLLAR AMOUNT OF INVENTORY
(Specify cost, market or other basis)

None ☐ b. List the name and address of the person having possession of the records of each of the two inventories reported in a., above.

DATE OF INVENTORY

NAME AND ADDRESSES OF CUSTODIAN OF INVENTORY
RECORDS

21 . Current Partners, Officers, Directors and Shareholders

None ☐ a. If the debtor is a partnership, list the nature and percentage of partnership interest of each member of the partnership.

NAME AND ADDRESS

NATURE OF INTEREST

PERCENTAGE OF INTEREST

None ☐ b. If the debtor is a corporation, list all officers and directors of the corporation, and each stockholder who directly or indirectly owns, controls, or holds 5 percent or more of the voting or equity securities of the corporation.

NAME AND ADDRESS

TITLE

NATURE AND PERCENTAGE
OF STOCK OWNERSHIP

22 . Former partners, officers, directors and shareholders

None ☐ a. If the debtor is a partnership, list each member who withdrew from the partnership within **one year** immediately preceding the commencement of this case.

NAME

ADDRESS

DATE OF WITHDRAWAL

None ☐ b. If the debtor is a corporation, list all officers, or directors whose relationship with the corporation terminated within **one year** immediately preceding the commencement of this case.

NAME AND ADDRESS

TITLE

DATE OF TERMINATION

23 . Withdrawals from a partnership or distributions by a corporation

None ☐ If the debtor is a partnership or corporation, list all withdrawals or distributions credited or given to an insider, including compensation in any form, bonuses, loans, stock redemptions, options exercised and any other perquisite during **one year** immediately preceding the commencement of this case.

NAME & ADDRESS
OF RECIPIENT,
RELATIONSHIP TO DEBTOR

DATE AND PURPOSE
OF WITHDRAWAL

AMOUNT OF MONEY
OR DESCRIPTION AND
VALUE OF PROPERTY

24. Tax Consolidation Group.

None ☐ If the debtor is a corporation, list the name and federal taxpayer identification number of the parent corporation of any consolidated group for tax purposes of which the debtor has been a member at any time within **six years** immediately preceding the commencement of the case.

NAME OF PARENT CORPORATION

TAXPAYER IDENTIFICATION NUMBER (EIN)

25. Pension Funds.

None ☐ If the debtor is not an individual, list the name and federal taxpayer identification number of any pension fund to which the debtor, as an employer, has been responsible for contributing at any time within **six years** immediately preceding the commencement of the case.

NAME OF PENSION FUND

TAXPAYER IDENTIFICATION NUMBER (EIN)

DECLARATION UNDER PENALTY OF PERJURY BY INDIVIDUAL DEBTOR

I declare under penalty of perjury that I have read the answers contained in the foregoing statement of financial affairs and any attachments thereto and that they are true and correct.

Date October 5, 2006

Signature /s/ Brian K. Hawk
Brian K. Hawk
Debtor

Date October 5, 2006

Signature /s/ Mary Ellen Hawk
Mary Ellen Hawk
Joint Debtor

Penalty for making a false statement: Fine of up to \$500,000 or imprisonment for up to 5 years, or both. 18 U.S.C. §§ 152 and 3571

Form 8
(10/05)

**United States Bankruptcy Court
District of Idaho**

In re **Brian K. Hawk
Mary Ellen Hawk**

Debtor(s)

Case No.

Chapter

7

CHAPTER 7 INDIVIDUAL DEBTOR'S STATEMENT OF INTENTION

- ☒ I have filed a schedule of assets and liabilities which includes debts secured by property of the estate.
- ☐ I have filed a schedule of executory contracts and unexpired leases which includes personal property subject to an unexpired lease.
- ☒ I intend to do the following with respect to property of the estate which secures those debts or is subject to a lease:

Description of Secured Property	Creditor's Name	Property will be Surrendered	Property is claimed as exempt	Property will be redeemed pursuant to 11 U.S.C. § 722	Debt will be reaffirmed pursuant to 11 U.S.C. § 524(c)
Location: 1185 Spruce Street, Pocatello ID	ABN AMRO Mortgage	Debtor will retain collateral and continue to make regular payments.			
1999 Chrysler LHS Location: 1185 Spruce Street, Pocatello ID	ISU Federal Credit Union	Debtor will retain collateral and continue to make regular payments.			

Description of Leased Property	Lessor's Name	Lease will be assumed pursuant to 11 U.S.C. § 362(h)(1)(A)
-NONE-		

Date **October 5, 2006**

Signature **/s/ Brian K. Hawk**
Brian K. Hawk
Debtor

Date **October 5, 2006**

Signature **/s/ Mary Ellen Hawk**
Mary Ellen Hawk
Joint Debtor

UNITED STATES BANKRUPTCY COURT
DISTRICT OF IDAHO

**NOTICE TO INDIVIDUAL CONSUMER DEBTOR UNDER § 342(b)
OF THE BANKRUPTCY CODE**

In accordance with § 342(b) of the Bankruptcy Code, this notice: (1) Describes briefly the services available from credit counseling services; (2) Describes briefly the purposes, benefits and costs of the four types of bankruptcy proceedings you may commence; and (3) Informs you about bankruptcy crimes and notifies you that the Attorney General may examine all information you supply in connection with a bankruptcy case. You are cautioned that bankruptcy law is complicated and not easily described. Thus, you may wish to seek the advice of an attorney to learn of your rights and responsibilities should you decide to file a petition. Court employees cannot give you legal advice.

1. Services Available from Credit Counseling Agencies

With limited exceptions, § 109(h) of the Bankruptcy Code requires that all individual debtors who file for bankruptcy relief on or after October 17, 2005, receive a briefing that outlines the available opportunities for credit counseling and provides assistance in performing a budget analysis. The briefing must be given within 180 days before the bankruptcy filing. The briefing may be provided individually or in a group (including briefings conducted by telephone or on the Internet) and must be provided by a nonprofit budget and credit counseling agency approved by the United States trustee or bankruptcy administrator. The clerk of the bankruptcy court has a list that you may consult of the approved budget and credit counseling agencies.

In addition, after filing a bankruptcy case, an individual debtor generally must complete a financial management instructional course before he or she can receive a discharge. The clerk also has a list of approved financial management instructional courses.

2. The Four Chapters of the Bankruptcy Code Available to Individual Consumer Debtors

Chapter 7: Liquidation (\$245 filing fee, \$39 administrative fee, \$15 trustee surcharge: Total Fee \$299)

1. Chapter 7 is designed for debtors in financial difficulty who do not have the ability to pay their existing debts. Debtors whose debts are primarily consumer debts are subject to a "means test" designed to determine whether the case should be permitted to proceed under chapter 7. If your income is greater than the median income for your state of residence and family size, in some cases, creditors have the right to file a motion requesting that the court dismiss your case under § 707(b) of the Code. It is up to the court to decide whether the case should be dismissed.

2. Under chapter 7, you may claim certain of your property as exempt under governing law. A trustee may have the right to take possession of and sell the remaining property that is not exempt and use the sale proceeds to pay your creditors.

3. The purpose of filing a chapter 7 case is to obtain a discharge of your existing debts. If, however, you are found to have committed certain kinds of improper conduct described in the Bankruptcy Code, the court may deny your discharge and, if it does, the purpose for which you filed the bankruptcy petition will be defeated.

4. Even if you receive a general discharge, some particular debts are not discharged under the law. Therefore, you may still be responsible for most taxes and student loans; debts incurred to pay nondischargeable taxes; domestic support and property settlement obligations; most fines, penalties, forfeitures, and criminal restitution obligations; certain debts which are not properly listed in your bankruptcy papers; and debts for death or personal injury caused by operating a motor vehicle, vessel, or aircraft while intoxicated from alcohol or drugs. Also, if a creditor can prove that a debt arose from fraud, breach of fiduciary duty, or theft, or from a willful and malicious injury, the bankruptcy court may determine that the debt is not discharged.

Chapter 13: Repayment of All or Part of the Debts of an Individual with Regular Income (\$235 filing fee, \$39 administrative fee: Total fee \$274)

1. Chapter 13 is designed for individuals with regular income who would like to pay all or part of their debts in installments over a period of time. You are only eligible for chapter 13 if your debts do not exceed certain dollar amounts set forth in the Bankruptcy Code.

2. Under chapter 13, you must file with the court a plan to repay your creditors all or part of the money that you owe them, using your future earnings. The period allowed by the court to repay your debts may be three years or five years, depending upon your income and other factors. The court must approve your plan before it can take effect.

3. After completing the payments under your plan, your debts are generally discharged except for domestic support obligations; most student loans; certain taxes; most criminal fines and restitution obligations; certain debts which are not properly listed in your bankruptcy papers; certain debts for acts that caused death or personal injury; and certain long term secured obligations.

B 201 (04/09/06)

Chapter 11: Reorganization (\$1000 filing fee, \$39 administrative fee: Total fee \$1039)

Chapter 11 is designed for the reorganization of a business but is also available to consumer debtors. Its provisions are quite complicated, and any decision by an individual to file a chapter 11 petition should be reviewed with an attorney.

Chapter 12: Family Farmer or Fisherman (\$200 filing fee, \$39 administrative fee: Total fee \$239)

Chapter 12 is designed to permit family farmers and fishermen to repay their debts over a period of time from future earnings and is similar to chapter 13. The eligibility requirements are restrictive, limiting its use to those whose income arises primarily from a family-owned farm or commercial fishing operation.

3. Bankruptcy Crimes and Availability of Bankruptcy Papers to Law Enforcement Officials

A person who knowingly and fraudulently conceals assets or makes a false oath or statement under penalty of perjury, either orally or in writing, in connection with a bankruptcy case is subject to a fine, imprisonment, or both. All information supplied by a debtor in connection with a bankruptcy case is subject to examination by the Attorney General acting through the Office of the United States Trustee, the Office of the United States Attorney, and other components and employees of the Department of Justice.

WARNING: Section 521(a)(1) of the Bankruptcy Code requires that you promptly file detailed information regarding your creditors, assets, liabilities, income, expenses and general financial condition. Your bankruptcy case may be dismissed if this information is not filed with the court within the time deadlines set by the Bankruptcy Code, the Bankruptcy Rules, and the local rules of the court.

Certificate of Attorney

I hereby certify that I delivered to the debtor this notice required by § 342(b) of the Bankruptcy Code.

Craig R. Jorgensen
Printed Name of Attorney
Address:
1246 Yellowstone, Suite A4
Pocatello, ID 83205-4904
208-237-4100

X /s/ Craig R. Jorgensen October 5, 2006
Signature of Attorney Date

Certificate of Debtor

I (We), the debtor(s), affirm that I (we) have received and read this notice.

Brian K. Hawk
Mary Ellen Hawk
Printed Name of Debtor

X /s/ Brian K. Hawk October 5, 2006
Signature of Debtor Date

Case No. (if known) _____

X /s/ Mary Ellen Hawk October 5, 2006
Signature of Joint Debtor (if any) Date

**United States Bankruptcy Court
District of Idaho**

In re Brian K. Hawk
Mary Ellen Hawk

Debtor(s)

Case No. _____
Chapter _____

7

VERIFICATION OF CREDITOR MATRIX

The above-named Debtors hereby verify that the attached list of creditors is true and correct to the best of their knowledge.

Date: October 5, 2006

/s/ Brian K. Hawk

Brian K. Hawk

Signature of Debtor

Date: October 5, 2006

/s/ Mary Ellen Hawk

Mary Ellen Hawk

Signature of Debtor

ABN AMRO Mortgage
8201 Innovation
Chicago, IL 60682-0082

Advanced Diagnostic Radiolog
PO Box 27461
Salt Lake City, UT 84127-6472

Aspen Physical Therapy
PO Box 6027
Pocatello, ID 83205-6027

Bingham Community Health
98 Poplar
Blackfoot, ID 83221

Bingham Memorial Hospital
98 Poplar Street
Blackfoot, ID 83221

Blackfoot Anesthesia
PO Box 829
Blackfoot, ID 83221

Blackfoot Anesthesia
PO Box 829
Blackfoot, ID 83221

Bonneville Collections
PO Box 150621
Ogden, UT 84415-0621

Capital One
P.O. Box 30285
Salt Lake City, UT 84130-0285

CBD Affiliated Srv
1246 Yellowstone Ste A2
Pocatello, ID 83204

CBD Affiliated Srv
1246 Yellowstone Ste A2
Pocatello, ID 83204

Columbia House Video
SKO Brenner American
PO Box 230
Farmingdale, NY 11735-0230

Darryl Bybee, DDS
1169 Call Creek Place
Pocatello, ID 83201

Douglas Nelson
PO Box 51630
Idaho Falls, ID 83405

Dr. Glenn Moradian
10567 Sawmill Pkwy
Powell, OH 43065

Evan G. Black, M.D.
PO Box 95970
South Jordan, UT 84095-0970

Facial Oral Surgery
PO Box 6033
Pocatello, ID 83205-6033

Facial Oral Surgery
PO Box 6033
Pocatello, ID 83205-6033

Home Depot
PO Box 6028
The Lakes, NV 88901-6028

Home Depot
PO Box 6028
The Lakes, NV 88901-6028

HSBC Card Services
PO Box 60102
City Of Industry, CA 91716-0102

Idaho Spine Ctr
131 N. Oak
Blackfoot, ID 83221

Intermountain Gas
PO Box 64
Boise, ID 83732

Intermountain Med Clinic
1951 Bench Road Ste B
Pocatello, ID 83201

ISU Federal Credit Union
Campus Box 8029
Pocatello, ID 83209-8029

Mastercard
PO Box 9001074
Louisville, KY 40291-1074

MBNA America
PO Box 15102
Wilmington, DE 19886-5102

Mr. McMinn and Dr. Summers
1133 Call Creek Place
Pocatello, ID 83201

N. American Collectors
PO Box 1425
Idaho Falls, ID 83403

Outsource
PO Box 3069
Idaho Falls, ID 83401

Portneuf Medical Center
651 Memorial Drive
Pocatello, ID 83201

Portneuf Medical Center
651 Memorial Drive
Pocatello, ID 83201

Portneuf Valley Phys Med
PO Box 4983
Pocatello, ID 83205

SKO Brenner
PO Box 230
Farmingdale, NY 11735-0230

Teton Open MRI
2060 W. Woodruff
Idaho Falls, ID 83404-6370

VISA
PO Box 923148
Norcross, GA 30010-3148

EXHIBIT G

Form B6B
(10/05)

In re **Brian K. Hawk,
Mary Ellen Hawk**

Case No. **06-40526**

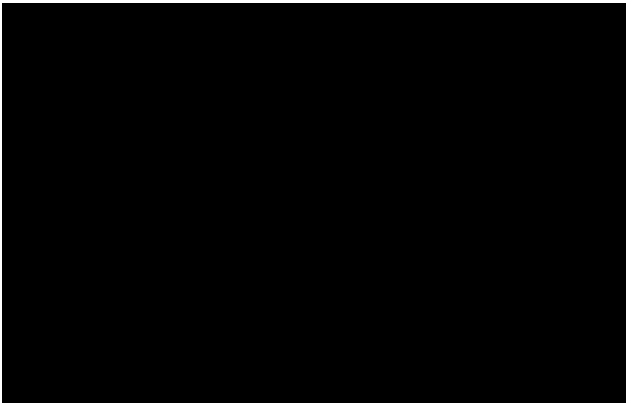
Debtors

SCHEDULE B. PERSONAL PROPERTY - AMENDED

Except as directed below, list all personal property of the debtor of whatever kind. If the debtor has no property in one or more of the categories, place an "x" in the appropriate position in the column labeled "None." If additional space is needed in any category, attach a separate sheet properly identified with the case name, case number, and the number of the category. If the debtor is married, state whether husband, wife, or both own the property by placing an "H," "W," "J," or "C" in the column labeled "Husband, Wife, Joint, or Community." If the debtor is an individual or a joint petition is filed, state the amount of any exemptions claimed only in Schedule C - Property Claimed as Exempt.

Do not list interests in executory contracts and unexpired leases on this schedule. List them in Schedule G - Executory Contracts and Unexpired Leases.

If the property is being held for the debtor by someone else, state that person's name and address under "Description and Location of Property." In providing the information requested in this schedule, do not include the name or address of a minor child. Simply state "a minor child."

Type of Property	N O N E	Description and Location of Property	Husband, Wife, Joint, or Community	Current Value of Debtor's Interest in Property, without Deducting any Secured Claim or Exemption
1. Cash on hand	X			
2. Checking, savings or other financial accounts, certificates of deposit, or shares in banks, savings and loan, thrift, building and loan, and homestead associations, or credit unions, brokerage houses, or cooperatives.			C	25.00
			C	25.00
			C	25.00
			J	140.00
3. Security deposits with public utilities, telephone companies, landlords, and others.	X			
4. Household goods and furnishings, including audio, video, and computer equipment.		3 couches Location: 1185 Spruce Street, Pocatello ID	C	125.00
		2 love seats Location: 1185 Spruce Street, Pocatello ID	C	40.00
		3 recliners Location: 1185 Spruce Street, Pocatello ID	C	45.00
		6 end tables Location: 1185 Spruce Street, Pocatello ID	C	60.00
		1 coffee table Location: 1185 Spruce Street, Pocatello ID	C	10.00
		1 queen bed Location: 1185 Spruce Street, Pocatello ID	C	30.00
Sub-Total > (Total of this page)				525.00

5 continuation sheets attached to the Schedule of Personal Property

Form B6B
(10/05)

In re **Brian K. Hawk,
Mary Ellen Hawk**

Case No. **06-40526**

Debtors

SCHEDULE B. PERSONAL PROPERTY - AMENDED
(Continuation Sheet)

Type of Property	N O N E	Description and Location of Property	Husband, Wife, Joint, or Community	Current Value of Debtor's Interest in Property, without Deducting any Secured Claim or Exemption
		1 twin bed Location: 1185 Spruce Street, Pocatello ID	C	20.00
		1 water bed Location: 1185 Spruce Street, Pocatello ID	C	20.00
		4 televisions Location: 1185 Spruce Street, Pocatello ID	C	100.00
		4 dressers Location: 1185 Spruce Street, Pocatello ID	C	60.00
		1 armoire Location: 1185 Spruce Street, Pocatello ID	C	25.00
		2 curio cabinets Location: 1185 Spruce Street, Pocatello ID	C	50.00
		5 lamps Location: 1185 Spruce Street, Pocatello ID	C	25.00
		washer and dryer Location: 1185 Spruce Street, Pocatello ID	C	60.00
		chest freezer Location: 1185 Spruce Street, Pocatello ID	C	25.00
		Kitchen table and chairs Location: 1185 Spruce Street, Pocatello ID	C	40.00
		Microwave Oven Location: 1185 Spruce Street, Pocatello ID	C	10.00
		Gas Stove	C	60.00
		Dishwasher Location: 1185 Spruce Street, Pocatello ID	C	25.00
		Refrigerator Location: 1185 Spruce Street, Pocatello ID	C	80.00
		Bakers Rack Location: 1185 Spruce Street, Pocatello ID	C	10.00
		Misc. kitchen appliances Location: 1185 Spruce Street, Pocatello ID	C	25.00
		Dishes, pots & pans, silverware Location: 1185 Spruce Street, Pocatello ID	C	50.00
			Sub-Total >	685.00
			(Total of this page)	

Sheet 1 of 5 continuation sheets attached
to the Schedule of Personal Property

Form B6B
(10/05)

In re **Brian K. Hawk,
Mary Ellen Hawk**

Case No. **06-40526**

Debtors

SCHEDULE B. PERSONAL PROPERTY - AMENDED
(Continuation Sheet)

Type of Property	N O N E	Description and Location of Property	Husband, Wife, Joint, or Community	Current Value of Debtor's Interest in Property, without Deducting any Secured Claim or Exemption
		Towels and linens Location: 1185 Spruce Street, Pocatello ID	C	20.00
		Lawn mower Location: 1185 Spruce Street, Pocatello ID	C	25.00
		Misc. lawn and garden tools Location: 1185 Spruce Street, Pocatello ID	C	10.00
		Misc. tools Location: 1185 Spruce Street, Pocatello ID	C	50.00
		Trampoline Location: 1185 Spruce Street, Pocatello ID	C	30.00
		Swing Set Location: 1185 Spruce Street, Pocatello ID	C	15.00
		Misc. toys and games Location: 1185 Spruce Street, Pocatello ID	C	75.00
		4 Stereo's Location: 1185 Spruce Street, Pocatello ID	C	60.00
		4 VCR's Location: 1185 Spruce Street, Pocatello ID	C	25.00
		3 DVD Players Location: 1185 Spruce Street, Pocatello ID	C	30.00
		2 vacuum cleaners Location: 1185 Spruce Street, Pocatello ID	C	20.00
5. Books, pictures and other art objects, antiques, stamp, coin, record, tape, compact disc, and other collections or collectibles.		Books Location: 1185 Spruce Street, Pocatello ID	C	20.00
		Pictures Location: 1185 Spruce Street, Pocatello ID	C	60.00
		CD's, DVD's, videos Location: 1185 Spruce Street, Pocatello ID	C	110.00
		Knick Knacks Location: 1185 Spruce Street, Pocatello ID	C	20.00
6. Wearing apparel.		Men's Clothing Location: 1185 Spruce Street, Pocatello ID	C	200.00

Sub-Total > **770.00**
(Total of this page)

Sheet **2** of **5** continuation sheets attached
to the Schedule of Personal Property

Form B6B
(10/05)

In re **Brian K. Hawk,
Mary Ellen Hawk**

Case No. **06-40526**

Debtors

SCHEDULE B. PERSONAL PROPERTY - AMENDED
(Continuation Sheet)

Type of Property	N O N E	Description and Location of Property	Husband, Wife, Joint, or Community	Current Value of Debtor's Interest in Property, without Deducting any Secured Claim or Exemption
		Women's Clothing Location: 1185 Spruce Street, Pocatello ID	C	300.00
		Girls Clothing Location: 1185 Spruce Street, Pocatello ID	C	200.00
		Boys Clothing Location: 1185 Spruce Street, Pocatello ID	C	200.00
7. Furs and jewelry.		2 Wedding Rings Location: 1185 Spruce Street, Pocatello ID	C	500.00
		Costume Jewelry Location: 1185 Spruce Street, Pocatello ID	C	40.00
8. Firearms and sports, photographic, and other hobby equipment.		Ruger 1022 Cal. Rifle Location: 1185 Spruce Street, Pocatello ID	C	50.00
		Ruger Security Six 357 Pistol Location: 1185 Spruce Street, Pocatello ID	C	125.00
		50 Cal. Muzzle Loader Location: 1185 Spruce Street, Pocatello ID	C	20.00
		Eastman Bow Location: 1185 Spruce Street, Pocatello ID	C	25.00
		Set of Golf Clubs Location: 1185 Spruce Street, Pocatello ID	C	35.00
		2 Cameras Location: 1185 Spruce Street, Pocatello ID	C	40.00
9. Interests in insurance policies. Name insurance company of each policy and itemize surrender or refund value of each.	X			
10. Annuities. Itemize and name each issuer.	X			
11. Interests in an education IRA as defined in 26 U.S.C. § 530(b)(1) or under a qualified State tuition plan as defined in 26 U.S.C. § 529(b)(1). Give particulars. (File separately the record(s) of any such interest(s). 11 U.S.C. § 521(c); Rule 1007(b)).	X			

Sub-Total > **1,535.00**
(Total of this page)

Sheet **3** of **5** continuation sheets attached
to the Schedule of Personal Property

Form B6B
(10/05)

In re **Brian K. Hawk,
Mary Ellen Hawk**

Case No. **06-40526**

Debtors

SCHEDULE B. PERSONAL PROPERTY - AMENDED
(Continuation Sheet)

Type of Property	N O N E	Description and Location of Property	Husband, Wife, Joint, or Community	Current Value of Debtor's Interest in Property, without Deducting any Secured Claim or Exemption
12. Interests in IRA, ERISA, Keogh, or other pension or profit sharing plans. Give particulars.		PERSI Retirement PO Box 83720 Boise ID 83720	H	1,431.10
		A.G. Edwards IRA Account	W	6,049.06
13. Stock and interests in incorporated and unincorporated businesses. Itemize.	X			
14. Interests in partnerships or joint ventures. Itemize.	X			
15. Government and corporate bonds and other negotiable and nonnegotiable instruments.	X			
16. Accounts receivable.	X			
17. Alimony, maintenance, support, and property settlements to which the debtor is or may be entitled. Give particulars.		Child Support owed to Joint Debtor	W	23,556.00
18. Other liquidated debts owing debtor including tax refunds. Give particulars.	X			
19. Equitable or future interests, life estates, and rights or powers exercisable for the benefit of the debtor other than those listed in Schedule A - Real Property.	X			
20. Contingent and noncontingent interests in estate of a decedent, death benefit plan, life insurance policy, or trust.	X			
21. Other contingent and unliquidated claims of every nature, including tax refunds, counterclaims of the debtor, and rights to setoff claims. Give estimated value of each.	X			
22. Patents, copyrights, and other intellectual property. Give particulars.	X			

Sub-Total > **31,036.16**
(Total of this page)

Sheet **4** of **5** continuation sheets attached to the Schedule of Personal Property

Form B6B
(10/05)

In re **Brian K. Hawk,
Mary Ellen Hawk**

Case No. 06-40526

Debtors

SCHEDULE B. PERSONAL PROPERTY - AMENDED
(Continuation Sheet)

Type of Property	N O N E	Description and Location of Property	Husband, Wife, Joint, or Community	Current Value of Debtor's Interest in Property, without Deducting any Secured Claim or Exemption
23. Licenses, franchises, and other general intangibles. Give particulars.	X			
24. Customer lists or other compilations containing personally identifiable information (as defined in 11 U.S.C. § 101(41A)) provided to the debtor by individuals in connection with obtaining a product or service from the debtor primarily for personal, family, or household purposes.	X			
25. Automobiles, trucks, trailers, and other vehicles and accessories.		1999 Chrysler LHS Location: 1185 Spruce Street, Pocatello ID	C	3,935.00
		1988 Jeep Wrangler Location: 1185 Spruce Street, Pocatello ID	C	1,475.00
		1988 Ford Bronco Location: 1185 Spruce Street, Pocatello ID	C	785.00
26. Boats, motors, and accessories.	X			
27. Aircraft and accessories.	X			
28. Office equipment, furnishings, and supplies.		Desk Location: 1185 Spruce Street, Pocatello ID	C	15.00
		Fax Machine Location: 1185 Spruce Street, Pocatello ID	C	20.00
29. Machinery, fixtures, equipment, and supplies used in business.	X			
30. Inventory.	X			
31. Animals.	X			
32. Crops - growing or harvested. Give particulars.	X			
33. Farming equipment and implements.	X			
34. Farm supplies, chemicals, and feed.	X			
35. Other personal property of any kind not already listed. Itemize.	X			

Sub-Total > **6,230.00**
(Total of this page)
Total > **40,781.16**

Sheet 5 of 5 continuation sheets attached
to the Schedule of Personal Property

(Report also on Summary of Schedules)

Form B6C
(10/05)

In re **Brian K. Hawk,
Mary Ellen Hawk**

Case No. 06-40526

Debtors

SCHEDULE C. PROPERTY CLAIMED AS EXEMPT - AMENDED

Debtor elects the exemptions to which debtor is entitled under:
(Check one box)

- ☐ 11 U.S.C. §522(b)(2)
☒ 11 U.S.C. §522(b)(3)

☐ Check if debtor claims a homestead exemption that exceeds \$125,000.

Description of Property	Specify Law Providing Each Exemption	Value of C Claimed Exemption	Current Value of Property Without Deducting Exemption
Real Property			
Location: 1185 Spruce Street, Pocatello ID	Idaho Code §§ 55-1001, 55-1002, 55-1003	100,000.00	107,000.00
	Accounts, Certificates of Deposit		
	Idaho Code § 11-605(10)	100.00	25.00
	Idaho Code § 11-605(10)	100.00	25.00
	Idaho Code § 11-605(10)	25.00	25.00
Household Goods and Furnishings			
3 couches Location: 1185 Spruce Street, Pocatello ID	Idaho Code § 11-605(1)(a)	125.00	125.00
2 love seats Location: 1185 Spruce Street, Pocatello ID	Idaho Code § 11-605(1)(a)	40.00	40.00
3 recliners Location: 1185 Spruce Street, Pocatello ID	Idaho Code § 11-605(1)(a)	45.00	45.00
6 end tables Location: 1185 Spruce Street, Pocatello ID	Idaho Code § 11-605(1)(a)	60.00	60.00
1 coffee table Location: 1185 Spruce Street, Pocatello ID	Idaho Code § 11-605(1)(a)	10.00	10.00
1 queen bed Location: 1185 Spruce Street, Pocatello ID	Idaho Code § 11-605(1)(a)	30.00	30.00
1 twin bed Location: 1185 Spruce Street, Pocatello ID	Idaho Code § 11-605(1)(a)	20.00	20.00
1 water bed Location: 1185 Spruce Street, Pocatello ID	Idaho Code § 11-605(1)(a)	20.00	20.00
4 televisions Location: 1185 Spruce Street, Pocatello ID	Idaho Code § 11-605(1)(a)	100.00	100.00
4 dressers Location: 1185 Spruce Street, Pocatello ID	Idaho Code § 11-605(1)(a)	60.00	60.00
1 armoire Location: 1185 Spruce Street, Pocatello ID	Idaho Code § 11-605(1)(a)	25.00	25.00

3 continuation sheets attached to Schedule of Property Claimed as Exempt

Form B6C
(10/05)

In re **Brian K. Hawk,
Mary Ellen Hawk**

Case No. **06-40526**

Debtors

SCHEDULE C. PROPERTY CLAIMED AS EXEMPT - AMENDED
(Continuation Sheet)

Description of Property	Specify Law Providing Each Exemption	Value of C Claimed Exemption	Current Value of Property Without Deducting Exemption
2 curio cabinets Location: 1185 Spruce Street, Pocatello ID	Idaho Code § 11-605(1)(a)	50.00	50.00
5 lamps Location: 1185 Spruce Street, Pocatello ID	Idaho Code § 11-605(1)(a)	25.00	25.00
washer and dryer Location: 1185 Spruce Street, Pocatello ID	Idaho Code § 11-605(1)(a)	60.00	60.00
chest freezer Location: 1185 Spruce Street, Pocatello ID	Idaho Code § 11-605(1)(a)	25.00	25.00
Kitchen table and chairs Location: 1185 Spruce Street, Pocatello ID	Idaho Code § 11-605(1)(a)	40.00	40.00
Microwave Oven Location: 1185 Spruce Street, Pocatello ID	Idaho Code § 11-605(1)(a)	10.00	10.00
Gas Stove Location: 1185 Spruce Street, Pocatello ID	Idaho Code § 11-605(1)(a)	60.00	60.00
Dishwasher Location: 1185 Spruce Street, Pocatello ID	Idaho Code § 11-605(1)(a)	25.00	25.00
Refrigerator Location: 1185 Spruce Street, Pocatello ID	Idaho Code § 11-605(1)(a)	80.00	80.00
Bakers Rack Location: 1185 Spruce Street, Pocatello ID	Idaho Code § 11-605(1)(a)	10.00	10.00
Misc. kitchen appliances Location: 1185 Spruce Street, Pocatello ID	Idaho Code § 11-605(1)(a)	25.00	25.00
Dishes, pots & pans, silverware Location: 1185 Spruce Street, Pocatello ID	Idaho Code § 11-605(1)(a)	50.00	50.00
Towels and linens Location: 1185 Spruce Street, Pocatello ID	Idaho Code § 11-605(1)(a)	20.00	20.00
Lawn mower Location: 1185 Spruce Street, Pocatello ID	Idaho Code § 11-605(1)(a)	25.00	25.00
Misc. lawn and garden tools Location: 1185 Spruce Street, Pocatello ID	Idaho Code § 11-605(1)(a)	10.00	10.00
Misc. tools Location: 1185 Spruce Street, Pocatello ID	Idaho Code § 11-605(1)(a)	50.00	50.00
Trampoline Location: 1185 Spruce Street, Pocatello ID	Idaho Code § 11-605(1)(a)	30.00	30.00
Swing Set Location: 1185 Spruce Street, Pocatello ID	Idaho Code § 11-605(1)(a)	15.00	15.00
Misc. toys and games Location: 1185 Spruce Street, Pocatello ID	Idaho Code § 11-605(1)(a)	75.00	75.00

Sheet 1 of 3 continuation sheets attached to the Schedule of Property Claimed as Exempt

Form B6C
(10/05)

In re **Brian K. Hawk,
Mary Ellen Hawk**

Case No. **06-40526**

Debtors

SCHEDULE C. PROPERTY CLAIMED AS EXEMPT - AMENDED
(Continuation Sheet)

Description of Property	Specify Law Providing Each Exemption	Value of C Claimed Exemption	Current Value of Property Without Deducting Exemption
4 Stereo's Location: 1185 Spruce Street, Pocatello ID	Idaho Code § 11-605(1)(a)	60.00	60.00
4 VCR's Location: 1185 Spruce Street, Pocatello ID	Idaho Code § 11-605(1)(a)	25.00	25.00
3 DVD Players Location: 1185 Spruce Street, Pocatello ID	Idaho Code § 11-605(1)(a)	30.00	30.00
2 vacuum cleaners Location: 1185 Spruce Street, Pocatello ID	Idaho Code § 11-605(1)(a)	20.00	20.00
<u>Books, Pictures and Other Art Objects; Collectibles</u>			
Books Location: 1185 Spruce Street, Pocatello ID	Idaho Code § 11-605(1)(b)	20.00	20.00
Pictures Location: 1185 Spruce Street, Pocatello ID	Idaho Code § 11-605(1)(b)	60.00	60.00
CD's, DVD's, videos Location: 1185 Spruce Street, Pocatello ID	Idaho Code § 11-605(1)(b)	110.00	110.00
Knick Knacks Location: 1185 Spruce Street, Pocatello ID	Idaho Code § 11-605(1)(b)	20.00	20.00
<u>Wearing Apparel</u>			
Men's Clothing Location: 1185 Spruce Street, Pocatello ID	Idaho Code § 11-605(1)(b)	200.00	200.00
Women's Clothing Location: 1185 Spruce Street, Pocatello ID	Idaho Code § 11-605(1)(b)	300.00	300.00
Girls Clothing Location: 1185 Spruce Street, Pocatello ID	Idaho Code § 11-605(1)(b)	200.00	200.00
Boys Clothing Location: 1185 Spruce Street, Pocatello ID	Idaho Code § 11-605(1)(b)	200.00	200.00
<u>Furs and Jewelry</u>			
2 Wedding Rings Location: 1185 Spruce Street, Pocatello ID	Idaho Code § 11-605(2)	500.00	500.00
Costume Jewelry Location: 1185 Spruce Street, Pocatello ID	Idaho Code § 11-605(2)	40.00	40.00
<u>Firearms and Sports, Photographic and Other Hobby Equipment</u>			
Ruger 1022 Cal. Rifle Location: 1185 Spruce Street, Pocatello ID	Idaho Code § 11-605(7)	50.00	50.00
Ruger Security Six 357 Pistol Location: 1185 Spruce Street, Pocatello ID	Idaho Code § 11-605(10)	125.00	125.00
50 Cal. Muzzle Loader Location: 1185 Spruce Street, Pocatello ID	Idaho Code § 11-605(10)	20.00	20.00

Form B6C
(10/05)

In re **Brian K. Hawk,
Mary Ellen Hawk**

Case No. **06-40526**

Debtors

SCHEDULE C. PROPERTY CLAIMED AS EXEMPT - AMENDED
(Continuation Sheet)

Description of Property	Specify Law Providing Each Exemption	Value of Claimed Exemption	Current Value of Property Without Deducting Exemption
Eastman Bow Location: 1185 Spruce Street, Pocatello ID	Idaho Code § 11-605(10)	25.00	25.00
Set of Golf Clubs Location: 1185 Spruce Street, Pocatello ID	Idaho Code § 11-605(1)(a)	35.00	35.00
2 Cameras Location: 1185 Spruce Street, Pocatello ID	Idaho Code § 11-605(1)(a)	40.00	40.00
Interests in IRA, ERISA, Keogh, or Other Pension or Profit Sharing Plans PERSI Retirement PO Box 83720 Boise ID 83720	Idaho Code §§ 59-1317, 59-1325	1,431.10	1,431.10
A.G. Edwards IRA Account	Idaho Code § 11-604(A)	6,049.06	6,049.06
Automobiles, Trucks, Trailers, and Other Vehicles 1988 Jeep Wrangler Location: 1185 Spruce Street, Pocatello ID	Idaho Code § 11-605(3)	1,475.00	1,475.00
1988 Ford Bronco Location: 1185 Spruce Street, Pocatello ID	Idaho Code § 11-605(3)	785.00	785.00
Office Equipment, Furnishings and Supplies Desk Location: 1185 Spruce Street, Pocatello ID	Idaho Code § 11-605(1)(a)	15.00	15.00
Fax Machine Location: 1185 Spruce Street, Pocatello ID	Idaho Code § 11-605(1)(a)	20.00	20.00

Total: **113,300.16** **120,150.16**

Sheet **3** of **3** continuation sheets attached to the Schedule of Property Claimed as Exempt

EXHIBIT H

R. SAM HOPKINS, TRUSTEE
P.O. BOX 3014
POCATELLO, ID 83206-3014
208-478-7978 phone
208-478-7976 fax

UNITED STATES BANKRUPTCY COURT
DISTRICT OF IDAHO

In Re:)	
HAWK, BRIAN K.)	Case No. 06-40526
HAWK, MARY ELLEN)	Chapter 7
)	
)	TRUSTEE'S SUPPLEMENTAL
)	FINAL ACCOUNTING
_____ Debtor(s))	

The undersigned trustee of the above named Debtor(s), certifies to the Court and the United States Trustee, that this estate has been fully administered. A Trustee's Final Accounting has been filed and proper disbursements completed. No funds or assets of the estate remain.

Therefore, pursuant to FRBP 5009, the trustee requests that this final account be accepted, and that the Court order the case closed and discharge the trustee of any further duties.

Dated: April 1, 2008

/s/ R. Sam Hopkins
R. SAM HOPKINS, TRUSTEE

SCHEDULE A

I. ADMINISTRATIVE EXPENSES PAID

Pro rata percentage used if less than 100%: 100.00%

TO WHOM PAID	AMOUNT OF CLAIM	AMOUNT PAID
R. SAM HOPKINS Trustee Fees	\$ 416.40	\$ 416.40
R. SAM HOPKINS Trustee Expenses	\$ 45.35	\$ 45.35
TOTAL	\$ 461.75	\$ 461.75

II. PRIORITY CLAIMS PAID

Pro rata percentage used if less than 100%: 0.00%

CLAIM NO.	CREDITOR	AMOUNT OF CLAIM	AMOUNT PAID
TOTAL		\$ 0.00	\$ 0.00

III. UNSECURED CLAIMS PAID

Pro rata percentage used if less than 100%: 1.61%

CLAIM NO.	CREDITOR	AMOUNT OF CLAIM	AMOUNT PAID
1	Intermountain Gas Company **T/O TO USBC	\$ 100.29	\$ 1.63**
2	Chase Bank USA, N.A.	\$ 18,994.77	\$ 306.71
3	Outsource	\$ 401.96	\$ 6.49
4	Darryl Bybee, DDS	\$ 3,296.60	\$ 53.23
5	N. American Collectors	\$ 1,249.90	\$ 20.18
6	CBP AFFILIATED SERVICES	\$ 10,058.31	\$ 162.41
7	Southeastern Asset Recovery Services	\$ 6,138.44	\$ 99.12
8	FIA Card Services	\$ 34,312.69	\$ 554.06
TOTAL		\$ 74,552.96	\$ 1,203.83

EXHIBIT I

Law Offices of
LOWELL N. HAWKES, CHARTERED
1322 East Center
Pocatello, Idaho 83201
(208) 235-1600

Licensed in Idaho and Utah

Fax (208) 235-4200

January 23, 2007

VIA FAX 208-395-8585

Kevin J. Scanlan
Hall, Farley, Oberrecht, & Blanton, P.A.
702 W. Idaho Street, Suite 700
Boise, ID 83701

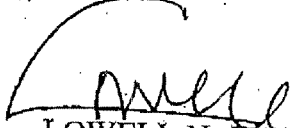
Re: *Strong & Hawk v. Intermountain Anesthesia, et al*

Dear Kevin:

After we filed this case we learned that Brian Hawk had filed Bankruptcy.
It is Case No. 06-40526.

I am in touch with the Trustee but have not yet been authorized as special
counsel.

Sincerely,


LOWELL N. HAWKES

LNH/kj
cc: Tom & Brian